

GOULD EXHIBIT “B”

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----x
RONALD BRITT,

Plaintiff,

- against -

Docket No.
13 CV 8289

THERMALD REALTY I, LP d/b/a REALTY
ASSOCIATES I, LP and WAVECREST
MANAGEMENT TEAM, LTD d/b/a WAVECREST
MANAGEMENT GROUP, LLC and WAVECREST
EQUITIES, LLC, and DOREEN ALDERMAN,

Defendants.
-----x

EXAMINATION BEFORE TRIAL of the Defendant,
Wavecrest Management Team, LTD, d/b/a Wavecrest
Management Group, LLC and Wavecrest Equities,
LLC, by JAY YABLONSKY, taken pursuant to
Notice, held at the Koerner Law Firm, 111 John
Street, New York, New York 10038, on June 24,
2014, commencing at 10:10 a.m., before IRIS
FERNHOFF, a Shorthand Reporter and Notary
Public within and for the State of New York.



COPY

1

2 A P P E A R A N C E S:

3

4 KOERNER LAW FIRM
Attorney for Plaintiff
5 111 John Street, Suite 420
New York, New York 10038

6

BY: GREGORY KOERNER, ESQ.

7

8

KAUFMAN DOLOWICH VOLUCK, ESQS.
Attorneys for Defendant
Wavecrest Management Team, LTD.
9 d/b/a Wavecrest Management Group, LLC
10 and Wavecrest Equities, LLC
11 135 Crossways Park Drive, Suite 201
Woodbury, New York 11797

12

BY: JEFFREY ETTENGER, ESQ.

13

14

GOULD & BERG, LLP
Attorneys for Defendants
Thermal Realty Associates I, LP
15 and Doreen Alderman
16 222 Bloomingdale Road
17 White Plains, New York 10605

18 BY: JANE BILUS GOULD, ESQ.

19

20 ALSO PRESENT:

21 Doreen Alderman - Defendant
Gregory Haroutunian - Intern

22

23

24

25

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

STIPULATIONS

IT IS HEREBY STIPULATED AND AGREED by
and between the attorneys for the respective
parties herein that the filing, sealing and
certification of the within deposition be
waived.

That such deposition may be signed
and sworn to before any officer authorized to
administer an oath with the same force and
effect as if signed and sworn to before the
officer before whom said deposition was taken.

IT IS FURTHER STIPULATED AND AGREED that
all objections except as to form are reserved
for the time of trial.

1 J. Yablonsky

2 J A Y Y A B L O N S K Y, having been first
3 duly sworn by a Notary Public within and for
4 the State of New York, was examined and
5 testified under oath as follows:

6

7 EXAMINATION BY

8 MR. KOERNER:

9 Q State your name for the record.

10 A Jay Yablonsky.

11 Q State your address for the record.

12 A 87-14 116th Street, Richmond Hill,

13 New York 11418.

14 Q Thank you for being here, Mr.

15 Yablonsky. Do you understand why you're here
16 today?

17 A Yes, I do.

18 Q Can you tell me what your
19 understanding is?

20 A Giving a deposition on a case that
21 Mr. Britt brought against several defendants,
22 my company included.

23 Q And the address you gave the court
24 reporter before, is that your home address?

25 A No, it's not.

1 J. Yablonsky

2 Q That's your work address?

3 A That's correct.

4 Q Do you have a work address in
5 Manhattan?

6 A No, I don't.

7 Q Have you sat for a deposition
8 before today?

9 A Yes, I have.

10 Q Have you ever been a defendant in
11 a lawsuit before?

12 A Yes, I have.

13 Q And in your capacity as an
14 employee of Wavecrest or in another capacity?

15 A Both.

16 Q Can you tell me the situation
17 where you were a defendant in a lawsuit before
18 personally?

19 A Management building-related cases.

20 Q Have any of the cases ever
21 involved claims of sexual harassment?

22 A No.

23 Q The same instructions that applied
24 in your prior depositions are going to apply
25 today. If I ask you a question, I would ask

1 J. Yablonsky
2 you to wait until I finish asking the question
3 before you answer.

4 If you don't understand a
5 question, please me know you don't understand,
6 otherwise, I will assume that you understood
7 the question. Okay?

8 A That's fine.

9 Q Who is your current employer?

10 A Wavecrest Management Team Limited.

11 Q What is your job there?

12 A Director of property management.

13 Q How long have you had that job?

14 A Since December of 2001.

15 Q And that address is in Richmond
16 Hill?

17 A That is correct.

18 Q And what is your salary?

19 MR. ETTINGER: Objection.

20 You can answer over my objection.

21 A It is none of your concern.

22 Q It is my concern.

23 MR. ETTINGER: You can answer.

24 We'll have it stricken at a later time.

25 A Somewhere around a hundred and

1 J. Yablonsky

2 forty thousand.

3 Q And do you get health benefits?

4 A No, I don't.

5 Q Are you currently married?

6 A Yes, I am.

7 MR. ETTINGER: Objection.

8 Q Do you have children?

9 MR. ETTINGER: Objection.

10 A Yes, I do.

11 Q How many?

12 MR. ETTINGER: Counsel, he is not
13 a defendant in the case. He's coming as
14 a corporate representative of the
15 defendant. Personal questions are
16 not --

17 MR. KOERNER: That's not a
18 personal question. Just answer it and
19 I'll move on, unless you're directing
20 him not to answer and --

21 MR. ETTINGER: I don't understand
22 the question so --

23 BY MR. KOERNER:

24 Q How many children do you have?

25 MR. ETTINGER: This is the last

1 J. Yablonsky

2 question of this nature I'm going to
3 permit him to answer.

4 A Three.

5 Q Thank you.

6 Have you ever been arrested?

7 MR. ETTINGER: Objection.

8 A No.

9 Q Have you ever entered into any
10 agreement whatsoever with anyone regarding this
11 lawsuit?

12 MR. ETTINGER: Objection.

13 Excuse me?

14 MS. BILUS-GOULD: Objection to
15 form.

16 BY MR. KOERNER:

17 Q ^RULING^ Have you ever entered
18 into any agreement whatsoever with anyone
19 concerning the lawsuit?

20 MR. ETTINGER: I am going to
21 direct him not to answer. I have no
22 idea what that question means.

23 MR. KOERNER: We're going to mark
24 that for a ruling.

25 MR. ETTINGER: Fine, mark it for a

1 J. Yablonsky

2 ruling.

3 BY MR. KOERNER:

4 Q Have you ever entered into
5 agreement with any of the parties with respect
6 to this lawsuit?

7 MS. BILUS-GOULD: Objection to
8 form.

9 MR. ETTINGER: I don't understand.
10 I'm not objecting. I don't understand
11 what do you mean by "an agreement"?

12 MR. KOERNER: Any agreement.

13 MR. ETTINGER: Of what nature?

14 MR. KOERNER: Regarding any
15 nature. This is background questions.

16 MR. ETTINGER: They're not
17 background questions. It makes no
18 sense.

19 BY MR. KOERNER:

20 Q Have you ever entered into any
21 agreement with anyone regarding this lawsuit?

22 MS. BILUS-GOULD: Same objection.

23 MR. ETTINGER: What do you mean
24 "with anyone"? I don't understand what
25 you --

1 J. Yablonsky

2 MR. KOERNER: It could be an
3 insurance company. It could be with
4 Miss Alderman.

5 MR. ETTINGER: He, him personally?

6 BY MR. KOERNER:

7 Q Any question I ask you from here
8 on end is you personally or as a representative
9 of Wavecrest.

10 Have you personally or as a
11 representative of Wavecrest entered into any
12 agreement with respect to this lawsuit?

13 MS. BILUS-GOULD: Objection to
14 form.

15 MR. ETTINGER: You can answer to
16 the extent you know what he's talking
17 about.

18 A I have not personally entered into
19 any agreements.

20 Q Have you ever entered into any
21 agreement on behalf of Wavecrest?

22 MS. BILUS-GOULD: Objection to
23 form.

24 A I have not entered into any
25 agreement on behalf of myself or on behalf of

1 J. Yablonsky

2 Wavecrest.

3 Q Are you aware of any insurance
4 which would cover Wavecrest or any of the
5 defendants with respect to this lawsuit?

6 MR. ETTINGER: Objection. You've
7 been provided a copy of his insurance
8 policy.

9 MR. KOERNER: I'm asking whether
10 he's aware of it.

11 MR. ETTINGER: If he's aware that
12 they have insurance?

13 MR. KOERNER: This is going to be
14 a really long deposition. Yes.

15 MR. ETTINGER: It's not a relevant
16 question. It's not an appropriate
17 question --

18 MR. KOERNER: Yes, it is.

19 MR. ETTINGER: -- but you can ask.

20 To the extent you know if
21 Wavecrest has insurance, you can answer.

22 A Wavecrest does maintain insurance.

23 Q And is that insurance policy
24 covering the defense of this lawsuit?

25 MS. BILUS-GOULD: Objection to

1 J. Yablonsky

2 form.

3 MR. ETTINGER: To the extent you
4 know anything about the insurance
5 information, you can answer.

6 A I don't know what parts of it may
7 be covered. I don't know what limits of
8 liability may have been expressed by the
9 insurance company, so I couldn't answer beyond
10 that.

11 Q Do you know what the limits of the
12 insurance policy are?

13 A No, I don't.

14 MR. KOERNER: Mark this as an
15 exhibit. Something that was produced
16 this morning by Mr. Ettenger, the
17 witness's lawyer, purportedly showing
18 one million dollars of coverage.

19 BY MR. KOERNER:

20 Q And I would ask you if you have
21 seen this insurance policy before?

22 MS. BILUS-GOULD: Are we're
23 marking it as an exhibit?

24 MR. KOERNER: Sure.

25 MR. ETTINGER: Are we marking this

1 J. Yablonsky

2 as the next exhibit?

3 MS. BILUS-GOULD: Yes. I propose
4 that we continue to mark them and the
5 next one would be 22 according to my
6 account.

7 MR. KOERNER: Let her mark it
8 first and then you can look at it.

9 (Whereupon, insurance document was
10 marked Exhibit 22 for identification as
11 of this date by the reporter.)

12 A No, I have not seen this
13 previously.

14 Q And you were not involved in the
15 production of this document to your attorneys
16 in connection with this litigation?

17 A No, I wasn't.

18 Q Okay. Thank you.

19 What is your highest level of
20 education, Mr. Yablonsky?

21 A I've done master's work.

22 Q In?

23 A Urban planning.

24 Q And prior to working at Wavecrest,
25 can you describe for me what your work history

1 J. Yablonsky

2 has been?

3 A I was doing property management
4 prior to working for Wavecrest as well.

5 Q Can you tell me what the names of
6 the companies were that you have been doing
7 property management with?

8 A The name of the company I worked
9 with prior to Wavecrest was Apran Associates,
10 A-P-R-A-N.

11 Q And did you have any property
12 management jobs prior to that?

13 A Yes, I did.

14 Q Can you just go ahead and list
15 each one that you had?

16 A Prior to Apran I worked for a firm
17 by the name of Crestmont. Prior to that I
18 worked for a company by the name of Home
19 Marketing of America. And prior to that I
20 worked for Starrett Housing.

21 Q And how long of a period do these
22 different jobs encompass?

23 MS. BILUS-GOULD: Objection to
24 form.

25 BY MR. KOERNER:

1 J. Yablonsky

2 Q Can you describe the chronology of
3 your employment?

4 MR. ETTINGER: Meaning, when did
5 you start --

6 BY MR. KOERNER:

7 Q When did you start becoming
8 property manager, approximately?

9 A Let's see. I've been with
10 Wavecrest since 2001. Prior to that was
11 probably early '90s. I don't remember the
12 exact timing. Each was for an extended period.

13 MR. ETTINGER: I think he wants to
14 know when you started as a property
15 manager.

16 A I started working in related
17 industries in construction management with
18 Starrett Housing back in -- I guess it will be
19 around '71, '72.

20 Q And at your position at Wavecrest
21 did you have supervisory responsibilities?

22 A Yes, I did.

23 Q How many persons did you
24 supervise?

25 A Depends on whether you consider

1 J. Yablonsky

2 building maintenance staff, but it would
3 probably be, I guess, thirty some odd.

4 Q And as part of your supervisory
5 position were you responsible for
6 administering, monitoring Title 7 management
7 duties?

8 A Not familiar with what that would
9 be.

10 Q As part of your supervisory
11 responsibilities were you responsible for
12 making sure that those that you were
13 supervising and working with did not violate
14 employment laws?

15 MS. BILUS-GOULD: Objection to
16 form.

17 A Not sure that ever came up as a
18 subject matter.

19 Q During the course of your entire
20 career since 1971, have you ever had any
21 involvement in any lawsuits that involved
22 sexual harassment?

23 A I believe you've already asked
24 that.

25 Q I don't think so.

1 J. Yablonsky

2 MR. ETTINGER: You did. He said

3 "no."

4 MS. BILUS-GOULD: You did.

5 BY MR. KOERNER:

6 Q When you were hired by Wavecrest
7 who hired you?

8 A Fred and Susan Camerata,
9 C-A-M-E-R-A-T-A.

10 Q And who interviewed you for the
11 position?

12 A Both of them did.

13 Q And that position that you were
14 hired for, is that the position that you
15 currently have now?

16 A Essentially.

17 Q When you were hired what
18 information, if any, were you given about
19 sexual harassment?

20 A None that I recall.

21 Q At any point during the time you
22 were working at Wavecrest were you ever given
23 any information about sexual harassment?

24 A Yes.

25 Q Can you describe for me the first

1 J. Yablonsky

2 time you were given any such information?

3 A Within the last year or two we had
4 a in-office seminar regarding it.

5 Q And who initiated that seminar?

6 A I don't know.

7 Q How many people attended?

8 A I don't know.

9 Q Who led the seminar?

10 A I believe it was an outside
11 attorney, but I don't recall specifically.

12 MR. KOERNER: Can you find that
13 out, the information about who led the
14 seminar and when it took place and who
15 attended; can you get that information?

16 I'm making a request now.

17 MR. ETTINGER: We can make that
18 available..

19 BY MR. KOERNER:

20 Q How long did the seminar last?

21 A Maybe an hour or two.

22 Q Can you describe what was
23 discussed?

24 A Not really.

25 Q Why not?

1 J. Yablonsky

2 A Because I don't recall the
3 specifics of it.

4 Q Do you recall anything about it?

5 A Only that it occurred.

6 Q And you have no information as to
7 what prompted that seminar?

8 A No, I don't.

9 Q To your belief was this seminar
10 related to the filing of this lawsuit?

11 A Not to my knowledge, no.

12 Q Sitting here today is defendant,
13 Doreen Alderman. Do you know her?

14 A Yes, I do.

15 Q When was the first time you met
16 her?

17 A Probably back in 2003 or '4.

18 Q Can you describe the circumstances
19 when you first met her?

20 A I first met her when we were
21 interviewing to assume the management of the
22 properties that she's involved in.

23 Q And what properties are those?

24 A There are four properties located
25 at 91 East 3rd Street, 419 East 9th Street --

1 J. Yablonsky

2 I'm sorry.

3 415 East 9th Street, 319 East 9th
4 Street, 115 Division Street and 91 East 3rd
5 Street.

6 Q And is it your understanding that
7 those properties were owned by an entity called
8 Thermal Realty?

9 MS. BILUS-GOULD: Objection to the
10 form.

11 A It's my understanding that three
12 of them were.

13 Q And the fourth property was owned
14 by who?

15 A A different corporate entity.

16 Q Do you know the name of that
17 corporate entity?

18 A I don't remember. Shanghai
19 Properties maybe. I don't remember the full
20 corporate name.

21 Q Do you know the who are the
22 principal of the Shanghai Properties?

23 A No, I don't.

24 Q Do you know who the principals of
25 Thermal Realty were?

1 J. Yablonsky

2 A I believe at the time they were
3 Thermalld Alderman.

4 Q And is that Doreen Alderman's
5 father?

6 A That's correct.

7 Q And did there come a time when Mr.
8 Alderman's ownership interest in these
9 properties transferred to Doreen Alderman?

10 A I don't know what happened in
11 terms of corporate entities and transfer of
12 ownership.

13 Q Is Mr. Alderman, is he currently
14 alive?

15 A No, he's not.

16 Q Do you know when he passed away?

17 A No, I don't.

18 Q With respect to these properties
19 when you first interviewed to get that business
20 did you interview with Mr. Alderman?

21 A No, I didn't.

22 Q Who did you interview with?

23 A I personally met with Miss
24 Alderman.

25 Q And can you describe what happened

1 J. Yablonsky

2 at that meeting?

3 MS. BILUS-GOULD: Objection to
4 form.

5 You can answer.

6 A That meeting was basically a
7 walkthrough of the properties.

8 Q And at that time were you awarded
9 the contract to manage those properties?

10 A Ultimately we were, yes.

11 Q At when did you start managing
12 these properties?

13 A I believe it was sometime in 2004.

14 Q And during that time when you
15 wanted to get direction with respect to the
16 management of those properties, who did you
17 report to?

18 A Ms. Alderman.

19 Q So during the entire course of
20 your involvement with these properties your
21 boss was Miss Alderman; is that correct?

22 MR. ETTINGER: Objection.

23 MS. BILUS-GOULD: Objection to
24 form.

25 MR. ETTINGER: You can answer.

1 J. Yablonsky

2 A She was my ownership contact.

3 Q And was she responsible for

4 Wavecrest continuing to act as the management?

5 MS. BILUS-GOULD: Objection to
6 form.

7 MR. KOERNER: Let me rephrase
8 that.

9 BY MR. KOERNER:

10 Q Was she, based on your
11 understanding, was she the individual who could
12 decide whether or not Wavecrest would continue
13 to work in those properties?

14 A That was my understanding.

15 Q Is it fair to characterize her as
16 your client?

17 MS. BILUS-GOULD: Objection to
18 form.

19 BY MR. KOERNER:

20 Q How would you characterize her in
21 your words, her relationship to you?

22 A That would be with a fair
23 characterization.

24 Q And it was your job to address her
25 concerns; is that correct?

1 J. Yablonsky

2 MR. ETTINGER: Objection.

3 MS. BILUS-GOULD: Same objection.

4 MR. ETTINGER: You're talking
5 about for the entire period of the
6 contract?

7 MR. KOERNER: Yes.

8 A That's essentially correct.

9 Q And with respect to the buildings
10 that Miss Alderman and Thermald Realty owned,
11 did you supervise any employees with respect to
12 those buildings?

13 A Yes.

14 Q Who were those employees?

15 A Would depend on the time frame
16 that you're talking about.

17 Q So let's start from beginning and
18 go on all the way until the end.

19 MS. BILUS-GOULD: What's the
20 question?

21 MR. ETTINGER: I think in 2004
22 when you got there, was there a
23 superintendent, was there a janitor or
24 something else?

25 A I'm trying to recall. I think at

1 J. Yablonsky

2 the beginning there was a non-resident. I
3 don't remember if it was a direct employee or a
4 service.

5 At some point we hired a resident
6 superintendent, and down the road we wound up
7 hiring both a resident superintendent as well
8 as a porter.

9 BY MR. KOERNER:

10 Q Can you give me the names of the
11 resident superintendent, the first one, and
12 then ultimately who else may have been hired?

13 A First one I remember, I don't know
14 if he was the first one, was a Brendan Burke, I
15 believe his last name was.

16 Q Can you describe for me what Mr.
17 Burke's job was and your view of how well he
18 did the job?

19 MS. BILUS-GOULD: Objection to
20 form.

21 You can answer.

22 A His job was to both maintain the
23 building and the building's mechanical systems,
24 to respond to tenants complaints, to clean the
25 properties, to take out the rubbish, take out

1 J. Yablonsky

2 the recycling, general building maintenance.

3 Q And he lived in the building?

4 A He lived in one of the buildings.

5 Q And can you describe for me your
6 opinion as to the quality of his work?

7 MS. BILUS-GOULD: Objection to
8 form.

9 You can answer.

10 A I think the quality of his work
11 started out satisfactory and slipped over time.

12 Q And was he eventually fired,
13 Brendan we're talking about?

14 A I don't recall whether he was
15 terminated or left voluntarily.

16 Q But were there problems with his
17 job performance prior to his departure?

18 MS. BILUS-GOULD: Objection to
19 form.

20 A There were some issues with it,
21 yes.

22 Q Did you express those issues to
23 him?

24 A We would have, yes.

25 Q Can you tell me your recollection

1 J. Yablonsky

2 of how you expressed those to him?

3 A Would have been verbally.

4 Q Can you describe to me the content

5 of any of the verbal discussion that you would

6 have had?

7 A Not that I recall specifically.

8 Q And after Brendan left, was he

9 replaced as a superintendent?

10 A Yes, he was.

11 Q Who was he replaced by?

12 A He was replaced by Mr. Britt to do

13 the basic superintendent work. And we also

14 hired somebody to do the porter work; the

15 cleaning the garbage, the recycling.

16 Q When you hired Mr. Britt did you

17 know him previously?

18 A Yes, sir.

19 Q Can you describe for me how you

20 first came to know Mr. Britt? We're talking

21 about the Plaintiff in this, Ronald Britt, how

22 you first came to know him, when and what

23 circumstances?

24 A He was renting some basement space

25 from us.

1 J. Yablonsky

2 Q And do you recall when he started
3 renting the basement space?

4 A Not specifically, no.

5 Q But it was certainly prior to when
6 he became superintendent of the building,
7 correct?

8 A That's correct.

9 Q And can you describe for me
10 approximately how long it was that he was a
11 tenant before he became a superintendent?

12 A Don't know offhand.

13 Q And during the time that he was a
14 tenant, before he became a superintendent, were
15 you aware of any problems with respect to his
16 tenancy?

17 MS. BILUS-GOULD: Objection to
18 form.

19 You can answer.

20 A Not that I recall.

21 Q Would you have hired him as a
22 superintendent if there had been any problems
23 with his tenancy?

24 MR. ETTENGER: Objection.

25 MS. BILUS-GOULD: Objection to

1 J. Yablonsky

2 form.

3 MR. ETTINGER: You can answer.

4 A Probably not.

5 Q And the basement space that he
6 rented from Miss Alderman, Thermald Realty, do
7 you know for what purpose that basement space
8 was used for?

9 A It was used basically for storage
10 of materials and equipment that he had. And I
11 believe he was also using it for some shop
12 work.

13 Q And was he also ever using it to
14 play music, to your knowledge?

15 A Initially. I don't recall.

16 Q Did there come a time when he was
17 using it to play music in some capacity that
18 you recall?

19 A Yes.

20 Q When was the first time you became
21 aware of that?

22 A No idea.

23 Q Was it prior to the time he was
24 terminated from the job?

25 A Yes.

1 J. Yablonsky

2 Q Was his playing music in that
3 space, was it ever a problem as far as you were
4 concerned in your capacity as management for
5 Wavecrest?

6 MS. BILUS-GOULD: Objection to
7 form.

8 A Yes.

9 Q When was it first expressed as a
10 problem?

11 A It was. I don't know when.

12 Q Approximately?

13 A I don't have a time frame.

14 Q Within the last year?

15 A I would say prior to then.

16 Q And do you recall when Mr. Britt
17 was fired?

18 A Sometime in the spring of 2013.

19 Q Can you describe the circumstances
20 whereby Mr. Britt changed his role from just a
21 tenant to being a tenant and a superintendent
22 of the building?

23 MS. BILUS-GOULD: Objection to
24 form.

25 BY MR. KOERNER:

1 J. Yablonsky

2 Q How did that happen?

3 MS. BILUS-GOULD: Objection to
4 form.

5 A I'm not sure I understand the
6 question.

7 Q Do you know how Mr. Britt was
8 hired?

9 MS. BILUS-GOULD: Objection to
10 form.

11 BY MR. KOERNER:

12 Q Mr. Britt was hired as a
13 superintendent of these buildings; is that
14 correct?

15 A That's correct.

16 Q Who was he hired by?

17 A He was hired by Ms. Alderman and
18 myself.

19 Q Whose idea was it to hire Mr.
20 Britt?

21 A I don't recall.

22 Q Was it your idea?

23 A I don't recall.

24 Q Can you describe for me the
25 quality of Mr. Britt's work while he was a

1 J. Yablonsky

2 superintendent there?

3 MR. ETTINGER: For the entire
4 period of time?

5 MR. KOERNER: Let's start with the
6 -- yes, the entire period of time, and
7 then I'd like him to introduce this, an
8 exhibit. This is the letter that you
9 wrote for him on May 6, 2013 stating,
10 among other things, that Mr. Britt has
11 proven himself to be a loyal, hard
12 working dedicated employee.

13 MS. BILUS-GOULD: Why don't we
14 mark that?

15 MR. KOERNER: Let's mark it and
16 then I want you to say, sitting here
17 today if you agree with everything you
18 wrote back then? That's the question.

19 (Letter is marked Exhibit 23 for
20 identification, as of this date.)

21 MR. ETTINGER: He's read it, so
22 whatever question you want to ask.

23 THE WITNESS: Would you repeat the
24 last question, please?

25 BY MR. KOERNER:

1 J. Yablonsky

2 Q Do you agree with everything you
3 wrote on May 6, 2013, as you sit here today?

4 A I would say that the letter was
5 written with a certain spin in the hope that it
6 would land him a job, and that's the fastest
7 way of having a terminated super leave the
8 building.

9 Q Is there anything in this letter
10 that's false?

11 A As I said, it's written with a
12 certain spin. I wouldn't characterize it as
13 false, no.

14 Q Everything in this letter is true?
15 MS. BILUS-GOULD: Objection to
16 form.

17 A I think I already answered that.

18 Q Did you write a letter of
19 recommendation for Brendan when he left the
20 building as superintendent?

21 A I don't recall. I probably did.

22 Q Sitting here today, without any
23 spin, can you describe for me what your opinion
24 was with respect to Mr. Britt's work as a
25 superintendent?

1 J. Yablonsky

2 MS. BILUS-GOULD: Objection to
3 form.

4 MR. ETTINGER: You could answer.

5 A I would say Mr. Britt's work was
6 average. There were things that he did well.
7 There were things that he created and many
8 problems that he solved. I certainly received
9 multiple complaints about him from tenants and
10 contractors. I also received at times
11 compliments about him.

12 Q Which tenants complained about
13 him?

14 A There were several that did as I
15 recall. There was a first-floor tenant in -- a
16 relatively new tenant in 415 East 9th Street,
17 the name is escaping me, that complained quite
18 a bit. Mary Shields. There was --

19 Q No, no. Let's go to each one.

20 First tenant, you don't remember
21 his name?

22 A I don't remember the name offhand.

23 Q Was there any documentation
24 regarding complaints about him?

25 A Not that I recall.

1 J. Yablonsky

2 MR. KOERNER: We would ask that
3 that person's information be furnished
4 to us.

5 MR. ETTINGER: Put all your
6 requests in writing.

7 BY MR. KOERNER:

8 Q Is that tenant currently still
9 there?

10 A No.

11 Q How long was he there?

12 A I don't remember. Probably two
13 years.

14 Q Who else?

15 A I don't remember it specifically.
16 There were several tenants.

17 Q Well, I'm asking you. This is a
18 lawsuit and it's very important for me that we
19 identify the specific people that complained
20 about Mr. Britt because I have a whole list of
21 people who rave about him.

22 I'm asking again, please give me
23 the specific names of anyone who complained
24 about Mr. Britt?

25 MR. ETTINGER: To the extent that

1 J. Yablonsky

2 you can recall.

3 A I know there was a complaint from
4 a Mary Shields.

5 Q Is she currently a tenant there?

6 A No, she's not.

7 Q When did she leave?

8 A She left about two years ago, I
9 would guess.

10 Q Do you have her current
11 information?

12 A No, I don't think so.

13 Q Where I can contact her?

14 A No idea.

15 Q Would you be able to find that for
16 me?

17 A I would doubt it.

18 Q So Mary Shields, who we don't know
19 who she is and she's not currently at the
20 building. Anybody else?

21 A We received complaints from a
22 Danny Chevez.

23 Q Who is he?

24 A He's a tenant in the building.

25 Q What's his unit number?

1 J. Yablonsky

2 MR. ETTINGER: If you don't
3 recall, we can leave a space in the
4 transcript. That's fine.

5 A I want to say Unit 8 but I'm not a
6 hundred percent sure.

7 Q Is he currently a tenant there?

8 A Yes, he is.

9 Q Anybody else?

10 A There were, but I don't recall the
11 specifics.

12 Q You stated that you also received
13 compliments about Mr. Britt's dedication to the
14 job; is that correct?

15 MS. BILUS-GOULD: Objection to
16 form.

17 A That's correct.

18 Q Can you tell me who you received
19 those compliments from?

20 A Again, not that I recall
21 specifically.

22 Q Do you recall the work he did for
23 a tenant named Marge?

24 A Yes.

25 Q Can you describe for me the work

1 J. Yablonsky

2 that he did?

3 A Basically her apartment was in
4 very bad disrepair and she was a borderline
5 hoarder, I suppose. And he was able to make
6 repairs in the apartment. I remember
7 specifically something, you know, with the
8 ceiling. And he helped her get the apartment
9 clean.

10 Q Can you describe for me the
11 quality of the work he did with respect to that
12 job?

13 A The quality of that work was fine.

14 Q Can you describe for me instances
15 where the quality of his work was not fine?

16 A I don't have any specific
17 instances now.

18 Q This letter that was introduced as
19 an exhibit, did you write this after Mr. Britt
20 requested a letter of recommendation?

21 A Yes.

22 Q Did you feel you had a choice as
23 to whether or not you were going to write this
24 letter of recommendation?

25 A Yes.

1 J. Yablonsky

2 Q With respect to Mr. Britt's
3 termination as a superintendent, whose decision
4 was it to terminate him?

5 A Ultimately it was Miss Alderman.

6 Q Do you have an understanding as to
7 why she made that decision?

8 MS. BILUS-GOULD: Objection to
9 form.

10 A I think the main basis was
11 probably economic.

12 Q Can you describe that for me?

13 A It was more cost effective for the
14 building to terminate the superintendent and
15 the porter and hire an outside service and rent
16 the apartment that was being used by the
17 superintendent.

18 Q How much were you paying Mr. Britt
19 during the time he was working there?

20 A I don't know without checking the
21 records.

22 Q Can you estimate?

23 A No.

24 Q Do you know which unit was Mr.
25 Britt living in during the time that he was a

1 J. Yablonsky

2 superintendent?

3 A I believe it's Apartment 12.

4 Q And is that apartment currently
5 being rented?

6 A It's currently being renovated.

7 Q Do you know what the rent that
8 you're going to be asking for it?

9 A I'm not sure, no.

10 Q Did you ever give any performance
11 evaluations of Mr. Britt during the time that
12 he was employed?

13 A Only verbal.

14 Q Can you describe for me the
15 content of those evaluations?

16 A I think I probably told him that
17 -- I think the actual thought was at times he
18 was more trouble than he was worth.

19 Q Can you describe for me what you
20 meant by that?

21 A Again, I found that Mr. Britt had
22 a tendency to complicate matters, to put
23 himself in the center of things, and I would
24 get complaints, as I said, both from tenants
25 and from contractors that just, you know,

1 J. Yablonsky

2 created issues.

3 Q And other than the tenant
4 complaints that you testified to there's no
5 other kind of complaints?

6 MS. BILUS-GOULD: Objection to
7 form.

8 A No. I said I received complaints
9 from contractors. I received complaints from a
10 broker that we used. I received complaints
11 from even the city marshall.

12 Q Let's go through each one of those
13 complaints that you are talking about.

14 First of all with the contractors,
15 who complained?

16 A I would receive complaints from
17 the boil contractor. I received complaints
18 from the general contractor that we were using
19 to do certain renovations in the building.

20 Q What were the nature of those
21 complaints?

22 A I think the nature of a lot of the
23 complaints had to do with access, coordination,
24 and him working with them to allow them to get
25 their jobs done.

1 J. Yablonsky

2 Q Was there a written record of any
3 of these complaints?

4 A I don't believe so.

5 Q With respect to the city marshall,
6 what was the nature of that complaints?

7 A The nature of that complaints was
8 him not showing up at appointments when there
9 were evictions scheduled.

10 Q Which city marshall complained to
11 you?

12 A I would have to go back and look.
13 I don't know offhand.

14 Q Is there any written records of
15 these complaints?

16 A I don't believe so.

17 Q But with respect to all of these
18 complaints that you're mentioning now, which
19 weren't mentioned in your letter of May 6,
20 2013, was Mr. Britt terminated because of any
21 of these complaints?

22 MR. ETTINGER: Objection to form.

23 MS. BILUS-GOULD: Objection to
24 form.

25 MR. ETTINGER: I believe he

1 J. Yablonsky

2 already testified as to why he was
3 terminated.

4 BY MR. KOERNER:

5 Q Were these complaints related in
6 any way to his termination?

7 MR. ETTINGER: I'm going to object
8 only to the extent he already testified
9 that Ms. Alderman made the decision to
10 terminate. So her basis for her
11 decision is what she'll testify to.

12 MR. KOERNER: I'm asking him his
13 understanding.

14 MR. ETTINGER: Of what she told
15 him or otherwise?

16 MR. KOERNER: Based on whatever
17 source.

18 Q What your understanding is of
19 whether or not his termination was related to
20 any complaints about his job performance?

21 A As I said before his termination,
22 I believe, the prime reason was economic, but
23 certainly the perception of what his job
24 performance was would have gone into the
25 equation and into the thinking in terms of

1 J. Yablonsky

2 terminating.

3 Q I notice when you answered some of
4 these questions you look at Miss Alderman
5 before you answered, and I would ask you to
6 please not do that to try to get any indication
7 from her, please.

8 A I don't think she's given me any
9 indication of anything.

10 Q Are you aware that Miss Alderman
11 has acknowledged that she had a sexual
12 relationship with Mr. Britt?

13 A I don't know that she has or
14 hasn't acknowledged it.

15 MR. ETTINGER: If you want to -- I
16 have not shown him a Notice to Admit.

17 MR. KOERNER: Right.

18 MR. ETTINGER: So if you want to
19 take judicial notice that he --

20 MR. KOERNER: Let's take judicial
21 notice that Miss Alderman has
22 acknowledged in court papers that she
23 had a sexual relationship with Mr.
24 Britt.

25 MS. BILUS-GOULD: I'm going to

1 J. Yablonsky
2 object to your characterization of what
3 she admitted as a, quote, sexual
4 relationship, unquote.

5 Do you have a copy? Maybe you
6 want to show it to him?

7 MR. KOERNER: Yes, I have a copy.

8 MR. ETTINGER: Let's take a
9 two-minute break.

10 MR. KOERNER: Sure.

11 (Whereupon, a recess was taken.)

12 BY MR. KOERNER:

13 Q So going back with respect to any
14 complaints about Mr. Britt's job performance,
15 is there any written evidence with respect to
16 any of these complaints?

17 A Not that I recall specifically.

18 Q As a general practice, when you
19 had complaints with your employees, if they
20 were serious complaints, did you create a
21 record of them?

22 A We generally did not do written
23 complaints of superintendents unless there was
24 a union situation.

25 Q Did there come a time where Mr.

1 J. Yablonsky

2 Britt made you aware that he had a sexual
3 relationship with Miss Alderman?

4 A Yes, he did.

5 Q Can you describe for me when that
6 occurred?

7 A It was after he was terminated.

8 Q And can you describe for me where
9 that conversation took place and what was said?

10 A As I recall I think it took place
11 in one of his trailers, I guess, you would call
12 it. And he mentioned it and rambled on about
13 it for a while.

14 Q Do you recall what you said?

15 A I believe I said very little.

16 Q Did you say, "Wow, now it all
17 makes sense"?

18 A Not that I recall, no.

19 Q Do you have any reason to believe
20 that there was not a sexual relationship
21 between Miss Alderman and Mr. Britt?

22 MS. BILUS-GOULD: Objection to
23 form.

24 A I've had no basis to either
25 believe it or not believe it.

1 J. Yablonsky

2 Q At the time that Miss Alderman was
3 having sex with Mr. Britt do you know whether
4 he was an employee of Wavecrest?

5 MS. BILUS-GOULD: Objection to
6 form.

7 A I have no idea of what time we're
8 talking about.

9 Q When you say he "rambled on," can
10 you describe for me what he said?

11 A I don't remember the specifics. I
12 just know that he was talking in the trailer,
13 and as I just said, going on and on about his
14 situation.

15 Q Did he seem upset?

16 MS. BILUS-GOULD: Objection to
17 form.

18 A He certainly wasn't happy.

19 Q With respect to the criticisms
20 about Mr. Britt's job performance, when was the
21 first one received?

22 A I don't recall.

23 Q When was the last one received?

24 A Don't recall that specifically
25 either.

1 J. Yablonsky

2 Q Were any of these criticisms ever
3 resolved that you would recall?

4 MS. BILUS-GOULD: Objection to
5 form.

6 MR. ETTINGER: What do you mean by
7 the word "resolved"?

8 MR. KOERNER: Satisfactorily
9 address.

10 MS. BILUS-GOULD: Objection to
11 form.

12 A I don't think the nature of them
13 were things that were being addressed. If a
14 contractor was complaining about him not
15 showing up on time to meet them to let them
16 into the building or something along those
17 lines, which was frequent, ultimately they
18 would get in but you weren't able to address
19 what had already occurred.

20 Q Was there ever any employee
21 handbook that were given to people that you
22 supervised as Wavecrest?

23 A No.

24 Q Currently is there a handbook?

25 A To whom? I'm not understanding.

1 J. Yablonsky

2 Q To employees of Wavecrest.

3 MR. ETTINGER: You're talking
4 about superintendents or otherwise?

5 MR. KOERNER: Superintendents or
6 otherwise.

7 A Superintendents are not employees
8 of Wavecrest.

9 Q Were there any, you know,
10 handbooks, employee handbooks given to any
11 employees of Wavecrest?

12 A To employees of Wavecrest, yes.

13 Q Did those handbooks contain any
14 information about sexual harassment?

15 A I don't know.

16 Q But those handbooks were not
17 provided to the superintendents, correct?

18 A That's correct.

19 Q With respect to Mr. Britt, your
20 understanding is that he was employed directly
21 by Thermald Realty?

22 MS. BILUS-GOULD: Objection to
23 form.

24 A That's correct.

25 Q And you don't know whether or not

1 J. Yablonsky

2 he was provided with any handbooks, employee
3 handbooks whatsoever?

4 MR. ETTINGER: By Thermal Realty?

5 MR. KOERNER: By any source.

6 MR. ETTINGER: Well, he said it
7 wasn't supplied by Wavecrest. So you're
8 saying by Thermal?

9 MR. KOERNER: By Thermal or
10 anyone else.

11 A Not to my knowledge.

12 Q Do you know whether or not
13 superintendents were ever given any instruction
14 or training with respect to sexual harassment?

15 A Not to my knowledge.

16 Q What is your understanding of your
17 obligations as a manager if you were confronted
18 with allegations of sexual harassment?

19 MS. BILUS-GOULD: Objection to
20 form.

21 MR. ETTINGER: Objection.

22 BY MR. KOERNER:

23 Q If you have an understanding?

24 A I'm not sure I understand what
25 you're asking.

1 J. Yablonsky

2 Q I'm asking if you have any
3 understanding of what your obligations as an
4 employee of Wavecrest are if you are aware of
5 allegations of sexual harassment? If you have
6 no understanding --

7 A It would be something that would
8 be reported to my superiors.

9 Q And with respect to Mr. Britt's
10 situation, when he let you become aware of the
11 fact that he had had a sexual relationship with
12 his employer who was your client, did you alert
13 your superiors?

14 A Not immediately, no.

15 Q Did there come a time when you did
16 alert them?

17 A Yes, I did.

18 Q When was that?

19 A When I saw it alleged in a
20 lawsuit.

21 Q Why didn't you alert them when you
22 first became aware of it?

23 A Because, one, I had no way of
24 knowing whether there was any truth to it, and
25 B, he was no longer an employee.

1 J. Yablonsky

2 Q Other than this instance, have you
3 ever reported any incident of sexual
4 harassment?

5 A No.

6 Q Let's go back to the hiring of Mr.
7 Britt. When he was hired, was Brendan employed
8 as a superintendent at that time when he was
9 hired or had he already left?

10 A I don't recall if there was an
11 overlap.

12 Q And you state that had don't
13 recall whose idea it was to approach Mr. Britt
14 to be hired?

15 A That is correct.

16 Q Do you recall whether or not Mr.
17 Britt approached you guys or you approached Mr.
18 Britt?

19 A Could have gone either way. I
20 don't recall.

21 Q I believe you testified that
22 ultimately it was Miss Alderman's decision as
23 to whether or not Mr. Britt would be hired; is
24 that correct?

25 A That's correct.

1 J. Yablonsky

2 Q Were you consulted with respect to
3 this decision?

4 A I would have been, yes.

5 Q And do you recall what advice you
6 gave or what opinion you had at that point?

7 A I'm sure I concurred.

8 Q You concurred that he should be
9 hired?

10 A Mm-hmm.

11 Q Can you describe for me why you
12 thought he should be hired?

13 A I don't recall the specifics. I
14 know that certainly we thought that he had some
15 skills as a handyman. He had been in and
16 around the building. He was available to do
17 the job. And we made a decision to hire him.

18 Q With respect to his skills as a
19 handyman, can you describe what skills you're
20 referring to?

21 A I know that he certainly was able
22 to do carpentry work, painting, that sort of
23 thing.

24 Q Can you describe the quality of
25 his carpentry work?

1 J. Yablonsky

2 MS. BILUS-GOULD: Objection to
3 form.

4 A Not specifically, no.

5 Q Can you describe the quality of
6 any of the skilled carpentry work that he did?

7 MS. BILUS-GOULD: Objection to
8 form.

9 A Again, not specifically.

10 Q And at the time that he was hired
11 you were not aware of any criticisms of his
12 work as a handyman?

13 MR. ETTINGER: Objection.

14 MS. BILUS-GOULD: Objection to
15 form.

16 A No, I wasn't.

17 Q Were there ever any criticisms of
18 the quality of his work as opposed to -- you
19 described sometimes he would not be there for
20 the city marshall. But with respect to the
21 quality of his work were there any complaints
22 about that?

23 A I don't recall specifically.

24 Q Can you recall, you testified
25 before that you did get compliments about the

1 J. Yablonsky

2 quality of his work. Can you recall for me,
3 sir, what some of these compliments were?

4 A Again, not specifically, no.

5 Q And you stated with respect to
6 performance reviews, the only performance
7 review you ever gave during the approximately
8 six or seven years that Mr. Britt was working
9 under your supervision, that you never gave him
10 any written reports; is that correct?

11 A That's correct.

12 Q Did you give any written report to
13 any of the superintendents that you were
14 supervising?

15 A No.

16 Q And with respect to Mr. Britt's
17 job performance, over time did it improve,
18 decline or anything else?

19 MS. BILUS-GOULD: Objection to
20 form.

21 BY MR. KOERNER:

22 Q I guess improved, declined or
23 stayed the same?

24 A I think it was probably somewhat
25 erratic. At times it was fine. At other times

1 J. Yablonsky

2 it was more problematic.

3 Q But is it accurate to say that his
4 performance did not decline over time?

5 MR. ETTINGER: Objection.

6 MS. BILUS-GOULD: Objection to
7 form.

8 A As I said, I think that there were
9 times that it was better. There were other
10 times that it was more problematic.

11 Q Do you recall that Mr. Britt was
12 working as a superintendent of these buildings
13 during 9/11?

14 MR. ETTINGER: You're talking
15 about 9/11 or Hurricane Sandy?

16 MR. KOERNER: I'm sorry. I
17 apologize. Withdrawn.

18 BY MR. KOERNER:

19 Q During Hurricane Sandy?

20 A He was the superintendent at that
21 point in time.

22 Q Can you describe for me the work
23 he did during that time frame?

24 A No, I can't.

25 Q Did you visit any of the buildings

1 J. Yablonsky

2 during that time frame?

3 A I was out of the country at the
4 time.

5 Q Where were you?

6 A I believe I was in Greece.

7 Q On vacation?

8 A Yes.

9 Q And do you recall getting any
10 comments from any source regarding Mr. Britt's
11 performance of his duties during the Hurricane
12 Sandy period?

13 A Only from him.

14 Q What did he say?

15 A He said he was a hero.

16 Q None of the tenants commented on
17 what occurred at the building during Hurricane
18 Sandy?

19 A No.

20 Q Did you get any complaints from
21 anyone at the building during the time of
22 Hurricane Sandy?

23 A I never heard from anybody during
24 that period.

25 Q Is it safe to say that Mr. Britt

1 J. Yablonsky

2 addressed their concerns during that period of
3 time?

4 A As I said, I wasn't here so I
5 can't answer that.

6 Q You stated that when Mr. Britt was
7 hired you also hired a porter to do the
8 cleaning duties; is that correct?

9 A That's correct.

10 Q Why did you hire a porter in
11 addition to Mr. Britt at that time?

12 A As I recall he was willing to do
13 and take on the superintendent portion of the
14 job. He did not want to be doing the porter
15 portion. And the economics were such in terms
16 of what we were paying each party that we were
17 able to, you know, do that at pretty much the
18 same cost as it had been previously. And we
19 thought it gave us more versatility by having
20 the second person.

21 Q Did Mr. Britt express to you that
22 he did not want to do the cleaning?

23 A That's my recollection, yes.

24 Q And the individual who was hired
25 to do the porter job, did he report to Mr.

1 J. Yablonsky

2 Britt or to you or to someone else?

3 A To Mr. Britt.

4 Q And who was that individual?

5 A We called him Zheng. I'm not sure
6 what his -- I don't recall his actual given
7 name.

8 Q And how was he paid?

9 A He was paid by check through
10 payroll.

11 Q By Wavecrest?

12 A By Thermald.

13 Q And do you know who signed
14 Thermald's checks?

15 A Either -- well, at some point it
16 would have been Mr. Camerata. At some point it
17 was Miss Alderman or at some point he might
18 have had a direct deposit, but I don't recall.

19 Q And Mr. Zheng continued to work as
20 the porter during the entire time that Mr.
21 Britt was the superintendent on these
22 properties?

23 A That's my recollection, yes.

24 Q And can you describe for me the
25 quality of Mr. Zheng's work?

1 J. Yablonsky

2 A Satisfactory.

3 Q Any criticism about his work?

4 A Not that I recall specifically,
5 no.

6 Q Mr. Zheng was terminated at the
7 same time as Mr. Britt; is that correct?

8 A That's correct.

9 Q Can you describe for me why
10 Mr. Zheng was terminated?

11 A As I said, the primary reason for
12 termination was an economic decision. And for
13 that to work we were replacing the building
14 staff with an outside service.

15 Q And who made the decision to
16 terminate Mr. Zheng?

17 A Ultimately it was Miss Alderman's
18 decision.

19 Q Did you ever see Mr. Britt off the
20 premises of the buildings where he was
21 superintendent?

22 A I'm not sure I understand.

23 Q Did you ever see Mr. Britt on the
24 premises, either in front of or in the premises
25 of the buildings that he was the

1 J. Yablonsky

2 superintendent?

3 MR. ETTINGER: You mean did he
4 actually ever see him working? I don't
5 understand the question.

6 BY MR. KOERNER:

7 Q Did you ever see him outside of
8 either the building or in front of the
9 building?

10 MR. ETTINGER: Just so we're
11 clear, when he went to the property did
12 he see Mr. Britt outside? You're
13 talking about during his employment?

14 MR. KOERNER: During his
15 employment, did he ever see Mr. Britt
16 outside of the building or in front of
17 the building?

18 A Sure.

19 Q Where?

20 A We would -- if I was with him
21 there were multiple times when we would go from
22 one building to another, so we would be walking
23 between sites.

24 Q But other than walking between the
25 buildings or in the buildings or in front of

1 J. Yablonsky

2 the buildings, you never saw Mr. Britt; is that
3 correct?

4 MS. BILUS-GOULD: Objection to
5 form.

6 A Did I ever see him in the street?
7 Not that I -- I don't recall.

8 Q You stated before that, you know,
9 that the only job performance reviews of
10 Mr. Britt that you ever gave him were oral, and
11 you stated to him that "You're more trouble
12 than you're worth."

13 Can you describe for me when these
14 conversations took place? Were they scheduled
15 formally, were they informal or what?

16 A They were informal.

17 Q Who was present when you conducted
18 these reviews other than you and Mr. Britt?

19 A It would have just been the two of
20 us.

21 Q And there's no written record of
22 it?

23 A No, there's not.

24 Q Did Mr. Britt ever complain to you
25 that he was being asked to do work that were

1 J. Yablonsky

2 outside the scope of his responsibility as the
3 superintendent of the building?

4 A Did he ever complain about it?

5 No.

6 Q When you communicated with Mr.
7 Britt did you communicate generally via e-mail
8 or phone or some other way?

9 A Would have been in person, by
10 phone or by e-mail.

11 Q Did you have frequent e-mail
12 correspondence with Mr. Britt?

13 A There were certainly e-mail
14 correspondence. I don't know that I would
15 characterize it as frequent.

16 Q Have you produced any and all
17 e-mail correspondence that you had with Mr.
18 Britt to your attorneys that you had in
19 connection with this litigation?

20 A Anything we had has been produced,
21 yes.

22 Q Did you ever send him any e-mails
23 that were not related to the business?

24 A No.

25 Q This is the complaint that's filed

1 J. Yablonsky

2 in this case.

3 MS. BILUS-GOULD: It's already

4 marked as Exhibit 2.

5 MR. ETTINGER: You want him to

6 read the whole thing?

7 MR. KOERNER: Just review it right

8 now.

9 BY MR. KOERNER:

10 Q My first question is: Have you
11 reviewed this document at some point prior to
12 today?

13 A Yes, I've seen it prior to today.

14 Q And when did you first receive the
15 document?

16 A I don't know what date that would
17 have been.

18 Q Was it approximately around the
19 time that it's dated?

20 MR. ETTINGER: It's dated November
21 19, 2013.

22 A That would be my assumption.

23 Q Do you recall how you received
24 this document?

25 A No, I don't.

1 J. Yablonsky

2 Q Or from whom?

3 A No, I don't.

4 Q Did you discuss this document with
5 anyone when you received it?

6 A Yes, I did.

7 Q Who did you discuss it with?

8 A I would have discussed it with the
9 principals of the firm as well as the person
10 who takes care of our insurance.

11 Q What was discussed in those
12 conversations?

13 A I think the substance of it would
14 have been primarily to report it to our
15 insurance carrier for defense purposes.

16 MR. ETTINGER: One second. I just
17 want a statement on the record that I
18 stated it was dated November 19th. My
19 recollection is there was a prior
20 complaint and it was probably filed in
21 August and they probably would have
22 received the document then. And then
23 this is the second complaint in
24 November.

25 MR. KOERNER: That's fine.

1 J. Yablonsky

2 MR. ETTINGER: Just to clarify.

3 BY MR. KOERNER:

4 Q During these initial conversations
5 with your principals and the insurer, did you
6 discuss the substance of the allegations and
7 whether you thought that they were true?

8 MR. ETTINGER: Objection.

9 MS. BILUS-GOULD: Objection to
10 form.

11 MR. ETTINGER: No. He didn't
12 state the insurer. The person who
13 coordinates the insurance for Wavecrest.

14 MR. KOERNER: No.

15 MR. ETTINGER: There's a person at
16 their company that's responsible for
17 that type of matter.

18 MR. KOERNER: So these are all
19 people within Wavecrest?

20 MR. ETTINGER: Correct.

21 BY MR. KOERNER:

22 Q And during these conversations
23 with these people, was it ever discussed as to
24 whether or not the allegations from the
25 complaint were true or not?

1 J. Yablonsky

2 MR. ETTENGER: Objection to form.

3 MS. BILUS-GOULD: Objection to
4 form.

5 A We probably discussed the
6 harassment complaints and said that we would
7 have no idea whether it was true or not. And
8 we discussed the portion of the complaint
9 where, you know, it talked about working 75
10 hours a week and pretty much found it
11 laughable.

12 Q Why did you consider it laughable?

13 A Because to my knowledge and from
14 what I observed there was no way that Mr. Britt
15 was working 75 hours a week.

16 Q And were you observing him on a
17 daily basis?

18 A I wasn't observing him on a daily
19 basis, but I certainly was in the buildings.
20 Saw him. Was interacting with him. And had no
21 sense that he was working anywhere near that
22 type of hours.

23 Q Did he submit time sheets to you?

24 A No, he didn't.

25 Q So how did you know how much hours

1 J. Yablonsky

2 he was working per week?

3 A Again, from interacting with him I
4 would know. And certainly had he been working
5 75 hours a week I would have been hearing about
6 it.

7 Q How often did you see him on a
8 given week?

9 A Probably weekly.

10 Q Once a week?

11 A About that.

12 Q And how long during that once a
13 week when you saw him, how long would you spend
14 with him?

15 A It would vary.

16 Q Approximately from what to what?
17 What was the shortest visit?

18 A Could have been from five minutes
19 to an hour.

20 Q Is it true that Mr. Britt was
21 on-call 24 hours a day?

22 A Mr. Britt was a resident
23 superintendent. As such, if there was an
24 emergency call, he would be part of the list of
25 who would be responding to it.

1 J. Yablonsky

2 Q So was he on-call 24/7 or not?

3 Was that part of his job responsibility?

4 A I thought I just answered.

5 Q It was a yes or no question.

6 MR. ETTINGER: I don't think it's
7 as simple as a yes or no question. Your
8 definition of on-call is different than
9 his definition of on-call. He answered
10 it in a manner in which he's comfortable
11 answering it.

12 BY MR. KOERNER:

13 Q With respect to these
14 conversations of Wavecrest, you said you
15 discussed the allegations of the complaint with
16 the principal. And who is that?

17 A Susan and Fred Camerata.

18 Q And also with respect to any other
19 people in Wavecrest, who were those people?

20 A I would have discussed it with
21 Rita Pavone, P-A-V-O-N-E.

22 Q And what's her title?

23 A She's our insurance coordinator.

24 Q Anybody else?

25 A I don't believe so.

1 J. Yablonsky

2 Q Was that a single meeting or were
3 there several meetings?

4 A I don't know that there were
5 meetings per se. It's people that I see all
6 the time. It would have been discussed when
7 the lawsuit came in.

8 Q Okay.

9 A Probably separately with
10 Mr. Camerata and Mrs. Camerata. And certainly
11 separately with Miss Pavone. But how many
12 times it came up in conversation, I couldn't
13 tell you.

14 Q And with respect to the
15 truthfulness of the allegations of sexual
16 harassment, the only thing that was ever
17 discussed by any of these parties was you had
18 no idea whether or not these charges are true
19 or false?

20 A We wouldn't have had any basis to
21 know.

22 Q And, in fact, to your knowledge
23 none of you did know?

24 A That's correct.

25 Q And other than the conversation

1 J. Yablonsky

2 you had with Mr. Britt when he first let you
3 know that, you know, there had been a sexual
4 relationship with Miss Alderman, were there any
5 other conversations that you had with Mr. Britt
6 regarding that?

7 MS. BILUS-GOULD: Objection to
8 form.

9 A Not that I recall, no.

10 Q So it was just a single
11 conversation?

12 A I don't recall whether he brought
13 it up at the time that he was terminated or
14 when he got the letter of recommendation. So
15 whether or not there was one or two
16 conversations, I'm not sure.

17 Q Did you take any notes with
18 respect to that conversation?

19 A No, I didn't.

20 Q Did you keep any notes or journal
21 with respect to Mr. Britt's employment?

22 A No.

23 Q With respect to the job
24 performance criticism of the Plaintiff that you
25 testified to today, specifically you said that

1 J. Yablonsky

2 there was a complaint that he was not there to
3 meet marshals for evictions; that's one
4 complaint, correct?

5 A Correct.

6 Q Can you describe the nature of any
7 other complaints or was it just general that he
8 put himself in the middle things?

9 A I think it was the combination of
10 putting himself in the middle of things. There
11 were times, like I said, that there were people
12 scheduled to be at the building that he wasn't
13 there to meet them and give them access. Those
14 were the general nature of the complaints from
15 outside vendors.

16 Q And with respect to the tenants'
17 complaints that you testified to, can you
18 describe the nature of those complaints?

19 A I don't recall the specifics of
20 them, no.

21 Q Would you describe them as serious
22 complaints?

23 A Again, I don't recall the
24 specifics of it.

25 Q Can you describe with respect to

1 J. Yablonsky

2 the compliments that Mr. Britt got from the
3 tenants? Can you describe specifically the
4 nature of those comments?

5 A Again, I don't recall the
6 specifics.

7 Q You never got any compliments that
8 you heard about his kindness to the older
9 tenants in the building? You never heard that?

10 A Not that I recall, no.

11 Q And other than, you know, the
12 informal performance reviews where you said
13 sometimes "you're more trouble than you're
14 worth," did you ever let Mr. Britt know of
15 these criticisms?

16 A Yes.

17 Q How?

18 A Verbally. Mr. Britt had a
19 tendency to tell me how everybody loved him and
20 all these compliments that we was getting and I
21 would remind him what people may be telling him
22 are not the same as what they are telling me.

23 Q Did you ever report your concerns
24 about Mr. Britt's performances to anybody?

25 A I don't believe so, no.

1 J. Yablonsky

2 Q Did Miss Alderman ever complain to
3 you about Mr. Britt?

4 A Yes.

5 Q Can you describe to me the nature
6 of her complaints about Mr. Britt?

7 A I think that she had indicated at
8 times that she wasn't happy with some of his
9 performance. She wasn't happy with him having
10 a dog that was using the backyard as a dog run
11 and bathroom. Noise coming from his music
12 studio. And just, you know, that type of
13 general unhappiness if you will.

14 Q When was the first time that she
15 expressed an unhappiness to you?

16 A I couldn't tell you specifically.

17 Q Generally?

18 A Generally I couldn't tell you.

19 Q Was it within the year after he
20 first started working?

21 A I don't recall.

22 Q With respect to his actual job
23 performance -- I'm not talking about his dog or
24 noise from the basement. I'm talking about his
25 job performance. Did she ever have any

1 J. Yablonsky

2 specific criticism regarding that to you?

3 A I recall there being some
4 criticism having to do with his interaction
5 with the elevator contractor during a
6 modernization that we were doing. I recall
7 there being some concern with his interaction
8 with the contractor during an apartment
9 renovation that we were doing. Things of that
10 nature.

11 Q Which apartment renovation was
12 that?

13 A I don't --

14 Q Just so that we could get a time
15 frame, because you don't remember when it was.

16 A I believe it was Apartment 26
17 maybe. I would have to double check.

18 Q Did she ever put any of these
19 concerns in writing to you?

20 A Not that I recall.

21 Q Did you relay these concerns to
22 Mr. Britt?

23 A Not specifically.

24 Q Why not?

25 A Because I had over time relayed

1 J. Yablonsky

2 what concerns that I had to Mr. Britt. I
3 wasn't having conversations with him beyond
4 that that were talking about anything that Miss
5 Alderman may have said to me.

6 Q Did you ever observe Mr. Britt and
7 Mr. Alderman interacting with each other?

8 MS. BILUS-GOULD: Objection to
9 form.

10 Miss Alderman?

11 MR. ETTINGER: You said, "Mr.
12 Alderman."

13 MR. KOERNER: I'm sorry.

14 BY MR. KOERNER:

15 Q Did you ever observe them
16 interacting together?

17 A Sure.

18 Q Can you describe for me what you
19 observed?

20 A We would typically, when Miss
21 Alderman was in town, meet. Go over sort of
22 things. Walk the buildings. Look at
23 conditions. Somewhere in that context there
24 was interaction with the three of us.

25 Q Did you ever notice anything

1 J. Yablonsky

2 inappropriate with respect to that interaction?

3 MS. BILUS-GOULD: Objection to
4 form.

5 You can answer.

6 A Not to my mind, no.

7 Q Did you ever notice anything
8 unusual in Mr. Britt's demeanor with respect to
9 those interactions?

10 MS. BILUS-GOULD: Objection to the
11 form.

12 A Not that I noticed.

13 Q Did she ever complain to you that
14 Mr. Britt was a bully?

15 A I think I recall her using that
16 terminology but I don't remember the exact
17 context.

18 Q Do you think that Mr. Britt was a
19 bully?

20 MS. BILUS-GOULD: Objection to
21 form.

22 A Not in his interaction with me,
23 no.

24 Q In his interaction with anyone?

25 MS. BILUS-GOULD: Objection to

1 J. Yablonsky

2 form.

3 A I couldn't answer about his
4 interaction with anybody else.

5 Q Well, you observed him, interacted
6 with him, right, for six or seven years.

7 Ron Britt, is he a bully based on
8 your observation of him?

9 A As I said, I never felt in terms
10 of our interactions that that was a word that
11 would come to mind.

12 Q Are you aware that Mr. Britt made
13 a complaint to the New York Department of Labor
14 for unpaid wages?

15 A Yes, I am.

16 Q Have you reviewed that complaint?

17 A Yes, I have.

18 Q And what is your opinion with
19 respect to the allegations in that complaint?

20 MR. ETTINGER: Objection.

21 You can answer.

22 A My opinion is that Mr. Britt got
23 paid as contracted for the superintendent work
24 that he was doing. That he got paid for any
25 work that he did that was outside the scope of

1 J. Yablonsky

2 the work. And that, as I said before, to my
3 knowledge and from my perception, there was no
4 overtime that he was putting in unless it was
5 in the context of outside work which he was
6 being compensated for.

7 Q Who computed the amount that Mr.
8 Britt was being paid by Wavecrest? Who
9 determined that?

10 MR. ETTINGER: In terms of his
11 salary or in terms --

12 MR. KOERNER: The amount.

13 MR. ETTINGER: -- of outside
14 compensation?

15 MR. KOERNER: No. His salary.

16 A It was an agreed upon weekly
17 amount that he was paid.

18 Q Who was that agreement between?

19 A The agreement was between him and
20 Thermalld Realty where there was a set weekly
21 amount that he was being paid on payroll.

22 Q And do you know who negotiated
23 that amount or was it something that was just
24 presented and Mr. Britt accepted, if you have
25 any knowledge?

1 J. Yablonsky

2 MS. BILUS-GOULD: Objection to
3 form.

4 A Whether it was Miss Alderman,
5 myself or both I don't recall.

6 Q You first learned of allegations
7 of sexual harassment in this conversation that
8 you had with Mr. Britt shortly after he was
9 terminated in the trailer; is that correct?

10 A Correct.

11 Q Can you recall for me what you
12 said when you learned of the allegation?

13 A I probably said very little. I
14 just listened.

15 Q But what very little that you did
16 say, do you recall what you said?

17 A Specifically, no.

18 Q And at that point did you discuss
19 the allegations with your supervisor?

20 A I believe that was asked and
21 answered.

22 MR. ETTINGER: Objection.

23 Q And?

24 MR. ETTINGER: He said "no."

25 BY MR. KOERNER:

1 J. Yablonsky

2 Q And you stated that during this
3 conversation Mr. Britt was -- I think was upset
4 or how would you describe his demeanor during
5 that conversation?

6 A I believe I said not happy.

7 Q Did he same distraught?

8 MS. BILUS-GOULD: Objection to
9 form.

10 A I don't know that I'm qualified to
11 answer that.

12 Q Why do you think he was not happy,
13 to your knowledge?

14 MR. ETTINGER: Objection.

15 MS. BILUS-GOULD: Objection.

16 MR. ETTINGER: He can't answer as
17 to why he wasn't happy.

18 You don't have to answer that
19 question.

20 BY MR. KOERNER:

21 Q Do you have an opinion as to if
22 Mr. Britt and Miss Alderman were, in fact,
23 having a sexual relationship, which she said
24 and we have notice of it that she has admitted
25 during the term of his employ, do you have an

1 J. Yablonsky

2 opinion whether or not it was appropriate or
3 not?

4 MR. ETTINGER: Objection.

5 MS. BILUS-GOULD: Objection to
6 form.

7 BY MR. KOERNER:

8 Q Last question: Do you have an
9 opinion whether it was appropriate or not?

10 MS. BILUS-GOULD: Objection to
11 form.

12 MR. KOERNER: Okay.

13 Q You can answer.

14 MR. ETTINGER: You're asking his
15 opinion of --

16 MS. BILUS-GOULD: And you've
17 editorialized way more than anything
18 that's been submitted in this --

19 MR. KOERNER: It's not an
20 editorial. There's a judicial notice
21 that she has acknowledged that she had a
22 sexual relationship while the time he
23 was employed.

24 BY MR. KOERNER:

25 Q ^RULING^ And I'm asking you, and

1 J. Yablonsky

2 it's a simple question, whether you think
3 that's appropriate or not?

4 MS. BILUS-GOULD: Objection to
5 form.

6 MR. ETTINGER: You're asking the
7 witness a core question regarding the
8 substance of a legal issue --

9 MS. BILUS-GOULD: Correct.

10 MR. ETTINGER: -- in which he's
11 not qualified to answer.

12 MR. KOERNER: It's not a legal
13 issue.

14 MR. ETTINGER: Well, I'm going to
15 object and direct him not to answer the
16 question.

17 MR. KOERNER: You can mark that
18 for a ruling.

19 I'm going to take a break and then
20 you can start asking questions.

21 MS. BILUS-GOULD: I want a few
22 minutes. Let's take 10 to 15 minutes
23 and then we'll come back.

24 (Whereupon, a recess was taken.)

25 (Time noted: 11:35 a.m.)

1 J. Yablonsky

2 MS. BILUS-GOULD: Back on the
3 record.

4 (Time noted: 11:50 a.m.)

5 EXAMINATION BY

6 MS. BILUS-GOULD:

7 Q Still morning. So good morning,
8 Mr. Yablonsky. My name is Jane Gould. I'm a
9 member of the White Plains law firm of Gould &
10 Berg. We represent Thermald Realty Associates
11 I, LP, and Doreen Alderman in this action.

12 I'm going to be asking you some
13 questions. You already know the drill because
14 you've been answering verbally for the last two
15 hours.

16 If there's anything you don't
17 understand, let me know and I will try to
18 rephrase it to make it more understandable.

19 Prior to the time that Mr. Britt
20 was terminated from his employment by Thermald
21 or Wavecrest, did Mr. Britt ever complain to
22 you that he was being sexually harassed by Miss
23 Alderman?

24 A No.

25 Q How many employees does Wavecrest

1 J. Yablonsky

2 Management Team Limited have?

3 A I would guess in the range of
4 about 75 or 80.

5 Q And what is the business of
6 Wavecrest Management Team Limited?

7 A Our business is third-party
8 management of residential real estate.

9 Q And that residential real estate
10 is generally within the city of New York?

11 A Primarily.

12 Q How many buildings does Wavecrest
13 currently manage?

14 A Well over a hundred.

15 Q And how many units would that
16 encompass?

17 A I think it's probably around
18 twenty thousand.

19 Q Since the time that Mr. Britt was
20 terminated has he sought employment with
21 Wavecrest?

22 A Other than probably asking me when
23 terminated if I had any place to put him, no.

24 Q When he asked you at the time he
25 was terminated whether you had any place to put

1 J. Yablonsky

2 him, what was your response?

3 A My response was no.

4 Q Did he ever give you a resume or
5 any sort of cover letter introducing himself?

6 A I don't believe so, no.

7 Q Did there come a point in time
8 when Wavecrest Management Team entered into
9 some form of management agreement with Thermal
10 Realty Associates I, LP?

11 A Yes.

12 Q Do you recall when that was?

13 A I believe it would have been
14 sometime around 2004.

15 Q Did you sign that management
16 agreement?

17 A I don't believe so.

18 MS. BILUS-GOULD: Let's mark this
19 as the next exhibit.

20 (Document is marked Exhibit 24 for
21 identification, as of this date.)

22 BY MS. BILUS-GOULD:

23 Q Having taken a look at Exhibit 24,
24 Mr. Yablonsky, do you recognize the exhibit?

25 A Yes, I do.

1 J. Yablonsky

2 Q Can you tell me what it is,
3 please?

4 A It's a management agreement
5 between Thermal Realty Associates and
6 Wavecrest Management.

7 Q And what property or properties
8 does this agreement relate to?

9 Taking a look at the first page of
10 the agreement I'm just going to call your
11 attention to the middle of the page,
12 "description of property," paragraph 1.2.

13 A It specifically refers to 91 East
14 3rd Street.

15 Q You indicated in your earlier
16 testimony that Thermal Realty Associates I, LP
17 owns other property; is that correct?

18 A That's correct.

19 Q Does Wavecrest have agreements,
20 written agreements, for the management of those
21 other properties?

22 A I would assume as much.

23 Q Do you know that for a fact?

24 A No, I don't.

25 Q Do you know whether those

1 J. Yablonsky

2 agreements are in the same form and format as
3 Exhibit 24?

4 A I would assume they would be.

5 Q But you don't know; is that
6 correct?

7 A That's correct.

8 Q Do you have an understanding of
9 whether Wavecrest, with regard to the Thermald
10 properties, has the authority to hire employees
11 for those properties?

12 A Yes, I do.

13 Q And does it have authority to hire
14 employees?

15 A Only with the owner's permission.

16 Q And with respect to the payments
17 of employees, and in this case now I'm
18 referring to Thermald employees, who determined
19 or determines how those employees are paid?

20 A Not sure I understand the
21 question.

22 Q Putting aside the amount that the
23 individual is paid, who determines how they are
24 paid? What is the procedure for being paid?

25 MR. ETTINGER: You're talking

1 J. Yablonsky

2 about regular wages?

3 MS. BILUS-GOULD: Right.

4 MR. ETTINGER: How does payroll
5 work basically?

6 A We contract on behalf of the owner
7 with an outside payroll processing firm that
8 processes the payroll.

9 Q And has that always been true
10 during the period of time when Wavecrest has
11 managed Thermal properties?

12 A I believe so.

13 Q And which outside processing firm
14 is that?

15 A Paychex.

16 Q And you have been asked a lot of
17 questions this morning about Ronald Britt, so
18 I'm going to assume that, of course, you do
19 know Ronald Britt; is that correct?

20 A That's correct.

21 Q Did there come a point in time
22 when Wavecrest entered into an employment
23 agreement with Mr. Britt?

24 MR. ETTINGER: Objection.

25 Wavecrest entered into?

1 J. Yablonsky

2 MS. BILUS-GOULD: Yes.

3 A No.

4 Q The answer is "no"?

5 A The answer is no.

6 Q Do you have knowledge as to
7 whether any other entity entered into an
8 employee agreement with Mr. Britt?

9 A Yes.

10 Q And what is that other entity?

11 A It would have been Thermal Realty
12 Associates.

13 Q Have you ever seen a fully
14 executed employment agreement between Ronald
15 Britt and Thermal Realty Associates I, LP?

16 A Yes.

17 Q When did you see such an
18 agreement?

19 A I would have seen it at the time
20 that it was executed, but the most recent one,
21 because I haven't been able to locate the
22 original executed agreement, was in an exhibit
23 to Mr. Britt's lawsuit.

24 Q And so looking at that lawsuit in
25 front of you, I don't know that all the

1 J. Yablonsky

2 exhibits are here.

3 MS. BILUS-GOULD: They are not.

4 MR. ETTINGER: I have one with all
5 the exhibits.

6 MS. BILUS-GOULD: Oh, thank you.

7 MR. ETTINGER: What exhibit is --

8 MS. BILUS-GOULD: What exhibit is
9 the employment agreement? It is
10 Exhibit --

11 MR. ETTINGER: Exhibit A?

12 MS. BILUS-GOULD: The first
13 exhibit. Exhibit A, I think.

14 MR. ETTINGER: Exhibit A.

15 BY MS. BILUS-GOULD:

16 Q So you're looking at Exhibit 2,
17 which has been marked at a prior deposition,
18 and you're looking at Exhibit A to Exhibit 2
19 which is a two-page exhibit.

20 A Yes.

21 Q And this is two pages. The first
22 page of which appears to be on the Wavecrest
23 Management Team Limited stationery; is that
24 correct?

25 A That's correct.

1 J. Yablonsky

2 Q And the first page appears to bear
3 the date January 4, 2007; is that correct?

4 A Yes.

5 Q And taking a look at the second
6 page of the exhibit, is that your signature on
7 the page?

8 A Yes, it is.

9 MR. KOERNER: What are you looking
10 at right now?

11 MR. ETTINGER: Exhibit A --

12 MS. BILUS-GOULD: I'm looking at
13 Exhibit A to Mr. Britt's complaint in
14 this action.

15 MR. KOERNER: Okay. Thank you.

16 BY MS. BILUS-GOULD:

17 Q Sir, I'm asking you to take a look
18 at Exhibit A and tell me whether this is the
19 entirety of an employment agreement that was
20 entered into and signed by Ronald Britt?

21 MR. ETTINGER: If you recall. He
22 said he hadn't seen it in a long time.

23 MS. BILUS-GOULD: I understand.

24 A It does not appear to be.

25 Q What is the basis for your

1 J. Yablonsky

2 statement that "it does not appear to be"?

3 A It's going from on the first page
4 from an item six to on the second page the
5 middle of the sentence.

6 Q This appears to be an incomplete
7 document; is that correct?

8 A That's correct.

9 Q But going back to my earlier
10 question about whether you recall whether Mr.
11 Britt entered into an employment agreement with
12 Wavecrest Management Team Limited, I note that
13 on Exhibit A to the complaint, which is Exhibit
14 2 in this deposition process, this document
15 appears to have been written on Wavecrest
16 stationery; is that correct?

17 A That's correct.

18 Q And it appears to have been signed
19 by you who are a Wavecrest agent; is that
20 correct?

21 A No. It was signed by me as an
22 agent of Thermald Realty Associates.

23 Q Do you recall whether prior to the
24 time Mr. Britt executed whatever agreement he
25 executed, he was presented with a draft of an

1 J. Yablonsky

2 employment agreement?

3 A I don't recall specifically.

4 Q I may ask you to take a look at a
5 document we marked in an earlier deposition as
6 Exhibit 3.

7 A (Witness peruses document.)

8 Q Do you recognize Exhibit 3?

9 A Yes, I do.

10 Q Can you tell me what this is,
11 please?

12 A It appears to be the full version
13 of the employment agreement which I believe I
14 probably printed from my computer.

15 Q And that is a document that's
16 dated December 28th of 2006; is that correct?

17 A Correct.

18 Q And do you have any knowledge as
19 to whether the document that was actually
20 signed by Mr. Britt is Exhibit 3?

21 A It wouldn't be Exhibit 3 because
22 this is, as I said, was printed off of my
23 computer, not on letterhead. But I believe in
24 sum and substance this would have been the
25 terms of the agreement.

1 J. Yablonsky

2 Q And just taking a look for a
3 moment as Exhibit 4 which we marked at an
4 earlier deposition.

5 A (Witness peruses document.)

6 Q Can you identify Exhibit 4?

7 A Again, it appears to be the
8 agreement between Thermald Realty and Ron Britt
9 in this case with one page missing.

10 Q Have you had a chance to search
11 Wavecrest records to ascertain whether you have
12 a copy of the fully executed agreement as it
13 was executed by Britt and Wavecrest?

14 A It wasn't executed by Wavecrest.
15 It was executed by me as an agent of Thermald
16 Realty.

17 Q Whether or not that is accurate,
18 have you had occasion to search your records to
19 ascertain whether you can locate the fully
20 executed agreement as executed by Mr. Britt?

21 A Yes, I have.

22 Q And have you been able to locate
23 that?

24 A No, I have not.

25 Q To the best of your recollection

1 J. Yablonsky

2 did the employment agreement that was actually
3 executed by Wavecrest as agent for Thermald and
4 Mr. Britt contain a provision whereby Mr. Britt
5 would be provided an apartment free of charge
6 as part of his compensation?

7 A I believe so, yes.

8 Q And to the best of your
9 recollection did the employment agreement that
10 was executed by Mr. Britt and Wavecrest as
11 agent for Thermald contain a provision whereby
12 Mr. Britt would receive free utilities as part
13 of his compensation?

14 A I believe so, yes.

15 Q And to the best of your knowledge
16 did the employment agreement as actually
17 executed by Mr. Britt and by Wavecrest as agent
18 for Thermald contain any provision regarding
19 reimbursement for telephone expenses?

20 A I believe it did.

21 Q What do you recall about that
22 provision?

23 A I believe that he was utilizing
24 his own phone and we were reimbursing him a
25 fixed amount a month.

1 J. Yablonsky

2 Q Do you recall what that amount
3 was?

4 A Not without me looking.

5 Q And do you recall what the initial
6 salary for Mr. Britt was in the employment
7 agreement that you actually executed?

8 A Not without going back to the
9 agreement.

10 Q Do you recall whether the
11 employment agreement that Mr. Britt actually
12 executed contained a provision whereby Mr.
13 Britt was an employee at will?

14 A I believe it contained such a
15 provision, yes.

16 Q Do you have an understanding as to
17 what it means to be an employee at will?

18 A Yes, I do.

19 Q Can you tell me what your
20 understanding is?

21 A My understanding is that it means
22 that the employer has the right to terminate
23 the employment for any reason or for no reason.

24 Q Looking for one more second at
25 Exhibit 3, which is a four-page document, not

1 J. Yablonsky

2 on letterhead, dated December 28, 2006, and I'm
3 looking at -- can I just have it back for a
4 second?

5 A (Witness complies.)

6 Q -- the second page of the document
7 which sets forth Mr. Britt's compensation. Do
8 you see that looking at the bottom of the page?

9 A Yes, I do.

10 Q What was that compensation on a
11 weekly basis?

12 A Three hundred fifteen dollars a
13 week.

14 Q Do you know how that compensation
15 was arrived at?

16 A I don't recall specifically.

17 Q And did that weekly amount ever
18 change?

19 A I would have to look at the
20 payroll records to verify.

21 Q What records would you have to
22 look at?

23 A Payroll journals.

24 Q I'm just going to show you what we
25 previously marked at a deposition as Exhibit 7,

1 J. Yablonsky

2 which is a series of pay stubs and ask if
3 taking a look at that exhibit refreshes your
4 recollection as to whether the weekly amount
5 received by Mr. Britt ever changed?

6 A It appears to have, yes.

7 Q And what did it change to?

8 A Would have changed to \$350 a week.

9 Q To your understanding what
10 services were encompassed in that \$350 a week?

11 A The services outlined in Exhibit
12 3.

13 Q Or any employment agreement that
14 he actually signed; is that correct?

15 A That's correct.

16 Q And was it your understanding that
17 pursuant to any agreement that Mr. Britt
18 actually signed that that number, whether it
19 was \$315 or \$350 a week, was supposed to be
20 full compensation for the services he performed
21 pursuant to the employment agreement?

22 A That's correct.

23 Q I will take it back.

24 A (Witness complies.)

25 Q Thank you.

1 J. Yablonsky

2 Looking at the management
3 agreement, did I take that back or do you have
4 it in front of you?

5 MR. ETTINGER: You took it back.

6 Q Exhibit 24. And I'm just going to
7 call your attention to page four of the
8 agreement, paragraph 3.9 that's entitled
9 "Compliance with law."

10 Do you see that?

11 A Yes, I do.

12 Q And it says, "Manager shall comply
13 with all applicable federal, state and local
14 governmental laws, ordinances, rules and
15 regulations with respect to the operation and
16 management of the property and performance by
17 manager of its duties and obligations under
18 this agreement"; is that correct?

19 MR. ETTINGER: You used the word
20 "management." It's actually
21 "maintenance." Third line. You said
22 "operation and management" --

23 MS. BILUS-GOULD: "Maintenance of
24 the property and performance by
25 manager" --

1 J. Yablonsky

2 Let me read it again.

3 BY MS. BILUS-GOULD:

4 Q Section 3.9 entitled "Compliance
5 of Laws" says, "Managers shall comply with all
6 applicable federal, state and local
7 governmental laws, ordinances, rules and
8 regulations with respect to the operation and
9 maintenance of the property and performance by
10 manager of its duties and obligations under
11 this agreement."

12 Do you see that?

13 A Yes, I do.

14 Q Do you have an understanding that
15 there are certain federal and state laws that
16 dictate how employees are supposed to be paid?

17 MR. ETTENGER: Objection.

18 A I have a cursory understanding of
19 it.

20 Q And do you have an understanding
21 of what the name of those laws are?

22 A Not really, no.

23 Q Does the phrase Fair Labor
24 Standards Act mean anything?

25 A I've heard the term.

1 J. Yablonsky

2 Q And have you heard the term New
3 York State Labor Law?

4 A Yes, I have.

5 Q During the course of your duties
6 as director of property management for
7 Wavecrest, did you have any training with
8 respect to the laws that are applicable to the
9 payment of employees in companies such as
10 Thermal?d?

11 A No.

12 Q What was the procedure by which
13 Mr. Britt was paid?

14 MR. ETTINGER: Objection.

15 MS. BILUS-GOULD: Let me build up
16 to it.

17 BY MS. BILUS-GOULD:

18 Q You've indicated in response to
19 Mr. Koerner's questions that Mr. Britt did not
20 submit time sheets, correct?

21 A That's correct.

22 Q So what was the procedure by which
23 he got his weekly or biweekly paycheck?

24 A He was on a regular payroll. So
25 if there were no deviations, a check would be

1 J. Yablonsky

2 cut on a biweekly basis through our payroll
3 people and through Paychex, which is an outside
4 payroll processing firm.

5 Q And was there some interface with
6 what you call your payroll people and Paychex?

7 A They would have to -- I don't know
8 if it was call in or by writing, but they would
9 have to somehow have the check initiated.

10 Q And who or what entity determined,
11 for example, what the withholdings were on Mr.
12 Britt's paycheck?

13 A Mr. Britt would have submitted a
14 -- I guess it's a W-4 form, indicating what his
15 deductions are. The calculation of the
16 deductions based on that would be done as part
17 of the payroll processing through Paychex.

18 Q Now you indicated that Wavecrest
19 manage many other properties; is that correct?

20 A That's correct.

21 Q Are there any properties where the
22 employees do submit time sheets?

23 A There might be some.

24 Q Do you know of any?

25 A I don't know specifically.

1 J. Yablonsky

2 Q Do you know how it's determined
3 which employee submit time sheets and which do
4 not?

5 A It would probably be based on the
6 number of employees and the type of employee.

7 Q And when you say "be based on the
8 number of employees," what do you mean by that?

9 A A building that has a larger staff
10 where there would be deviation of, you know,
11 hours is more likely to have had time sheets
12 than where there was a regular set weekly
13 amount that somebody was being paid.

14 Q And when you say whether an
15 employee submits time sheets might depend upon
16 the type of employee, what are you referring
17 to?

18 A I'm referring to the distinction
19 between a superintendent and a handyman,
20 porter.

21 Q And what is that distinction to
22 your knowledge as to when an employee would
23 submit time sheets and when they would not?

24 A In the case of a superintendent,
25 again, certainly on a smaller building such as

1 J. Yablonsky

2 this, there was a set weekly amount that the
3 employee was being paid rather than a porter
4 which would be more based on the actual time
5 worked. Mr. Britt was not punching a time
6 clock.

7 Q And with regard to the
8 withholding, for example, that Mr. Britt had in
9 his paychecks, did Ms. Alderman have anything
10 to do with determining those withholdings?

11 A I wouldn't think so, no.

12 Q Mr. Koerner asked you who signed
13 payroll checks for Mr. Britt; is that correct?

14 A Yes, he did.

15 Q And you answered -- you gave two
16 possibilities; is that correct?

17 A No. I gave three possibilities.

18 Q What were those three
19 possibilities?

20 A I believe the three possibilities
21 were one of the principals of the firm,
22 Mr. Camerata. It might have been Miss Alderman
23 or there might have been direct deposit.

24 Q And with regard to Mr. Britt, do
25 you recall the period of time that he worked at

1 J. Yablonsky

2 91 East 3rd Street, do you know who signed his
3 payroll checks?

4 A It might have been all three
5 depending on the timing.

6 Q And is there somebody at Wavecrest
7 that would actually know who actually signed
8 Mr. Britt's paychecks?

9 A Not without seeing the actual
10 canceled checks.

11 Q Now, you made reference, I
12 thought, during the course of your testimony
13 and answers to Mr. Koerner's questions, that
14 Mr. Britt received payment in addition to his
15 regular weekly paychecks; is that correct?

16 A That's correct.

17 Q Was there some sort of agreement
18 between Wavecrest and/or Thermald and/or Mr.
19 Britt as to how Mr. Britt would be paid for
20 these extra services?

21 A Generally it would be on a
22 case-by-case basis.

23 Q And case-by-case as a general
24 proposition, what was the procedure by which
25 Mr. Britt would do additional work and by which

1 J. Yablonsky

2 you and/or Thermald would agree to additional
3 payment?

4 A There were times that something
5 would have come up where he would have advised
6 us in advance, requested it, and told us what
7 the price would be for a specific work. There
8 were other times that work might have come up
9 that he was doing and submitting an invoice
10 for.

11 Q As a general proposition, when Mr.
12 Britt was going to do extra work, did he submit
13 a proposal to you in advance of doing the work?

14 A As I said, part of the time there
15 would have been something in advance. Part of
16 the time it would have been an invoice. But
17 generally he would have advised us in advance
18 that this was something that he was doing.

19 Q And who would agree on behalf of
20 Thermald to permit him to do it and as to what
21 price he would be paid?

22 A Most often it would be me.

23 Q And when Mr. Britt submitted these
24 proposals and/or the invoices, were there any
25 hours mentioned in those proposals or invoices?

1 J. Yablonsky

2 A No. It was generally a
3 description of work and amount.

4 Q I'm going to ask you to take a
5 look at Exhibit 8, which we had marked at an
6 earlier deposition.

7 A (Witness peruses document.)

8 MR. KOERNER: Which one is this?

9 MS. BILUS-GOULD: Invoices for
10 2011 through August 15, 2011.

11 BY MS. BILUS-GOULD:

12 Q So do you recognize the invoices
13 that are part of Exhibit 8?

14 A Yes, I do.

15 Q And those are generally the type
16 of invoices that Mr. Britt submitted for this
17 extra work that we are talking?

18 A That's correct.

19 Q And with regard to Exhibit 8, is
20 it accurate that there are no hours set forth
21 anywhere in the invoices that are part of this
22 exhibit?

23 A Not that I saw as I leafed through
24 it.

25 Q How did you come to an agreement

1 J. Yablonsky

2 with Mr. Britt about how he would be paid for
3 work that's represented in these invoices on
4 Exhibit 8?

5 A As I said, based on the scope of
6 the work, there was times he would have told us
7 in advance and we may have agreed to it or
8 negotiated it, or he would submit an invoice
9 and if we thought that the amount was fair and
10 in line with the scope of work that he was
11 doing, we would approve it.

12 Q And is it accurate that there was
13 no discussion of hours either by him or by you
14 as it related to payment of those invoices?

15 A Not that I recall.

16 Q Was there any discussion of an
17 hourly rate that Mr. Britt would be paid for
18 work reflected on the invoices in Exhibit 8,
19 for example, \$35 an hour, did he ever discuss
20 that with you?

21 A Not that I recall, no.

22 Q In the instances where Mr. Britt
23 submitted proposals in advance for work, did
24 you have any contact with Miss Alderman to get
25 her approval for that work?

1 J. Yablonsky

2 A On some occasions, I believe, I
3 did.

4 Q But not on all; is that correct?

5 A That's correct.

6 MS. BILUS-GOULD: Let's take a
7 quick break.

8 (Whereupon, a recess was taken.)

9 BY MS. BILUS-GOULD:

10 Q Mr. Yablonsky, I'm going to show
11 you an exhibit that we marked at an earlier
12 deposition as Exhibit 7, which is a series of
13 Mr. Britt's pay stubs, check stubs for January
14 2011 through August of 2011. And then I have a
15 couple of questions.

16 A (Witness peruses document.)

17 Q Have you had a chance to look at
18 the exhibit?

19 A Yes, I have.

20 Q I'm going to ask you to look at
21 the second page of the exhibit, it's actually
22 marked page two.

23 A Okay.

24 Q On that page I see an entry for
25 something called "apartment repair" and an

1 J. Yablonsky

2 amount of "\$882."

3 Do you see that?

4 A Yes, I do.

5 Q Who determined that there would be
6 a classification on these paychecks or pay
7 stubs as apartment repair?

8 A I don't know who specifically came
9 up with that equation.

10 Q Was it you?

11 A No.

12 Q Was it somebody at Wavecrest?

13 A I don't know whether it was
14 somebody at Wavecrest or somebody at Paychex.

15 Q Was it Miss Alderman?

16 A I would think not.

17 Q Is it accurate to assume that
18 someone from Wavecrest would tell Paychex how
19 Wavecrest wanted that invoice characterized for
20 purposes of a pay stub?

21 A I don't know whether they have
22 predetermined categories or whether there is
23 latitude in what you would call something, so I
24 really couldn't answer it.

25 Q You have no knowledge of that?

1 J. Yablonsky

2 A No, I don't.

3 Q I'm going to ask you to take a
4 look at what we marked at an earlier deposition
5 as Exhibit 10, which is entitled "Compensation
6 Report." And it appears to be the compensation
7 report for Mr. Britt for the year 2011.

8 Do you see that?

9 A Yes, I do.

10 Q And looking at pages one and two
11 and four of that exhibit, is it accurate that
12 there are entries for apartment repairs, but
13 there are no hours listed for those repairs?

14 A That appears to be the case, yes.

15 Q But looking again at page four of
16 Exhibit 10, I'm going to call your attention to
17 the bottom third of the page and the third
18 entry from the bottom of the page, there's also
19 an entry for apartment repairs.

20 Do you see that?

21 A Yes, I do.

22 Q And here there is an amount, a
23 gross earnings with regard to the apartment
24 repairs of \$2179.99."

25 Do you see that?

1 J. Yablonsky

2 A Yes, I do.

3 Q And next to it there's a box
4 called "hours" and it says "249.14 hours."

5 Do you see that?

6 A Yes, I do.

7 Q And next to that there appears to
8 be an hourly rate of \$13.125; is that correct?

9 A That's correct.

10 Q Do you have any knowledge as to
11 why the entries for apartment repairs change to
12 reflect some number of hours?

13 A No, I don't.

14 Q Do you have any knowledge as to
15 whether Mr. Britt actually spent 249.14 hours
16 on the repair that's reflected in this entry?

17 A No, I don't.

18 Q Do you believe that he spent that
19 many hours in that repair?

20 A I would assume that the twenty one
21 seventy nine was an agreed amount and that the
22 hours and rate were backed in to it
23 mathematically.

24 Q What is the basis of that
25 assumption?

1 J. Yablonsky

2 A The basis is that we were
3 approving invoices that had lump-sum amounts.
4 Not specific hours.

5 Q And so the numbers that are
6 reflected when you have a number of hours and
7 an hourly rate are reflective of backing in to
8 the amount of the invoice; is that correct?

9 A That's my assumption.

10 Q Did Miss Alderman have anything to
11 do with the determination that this
12 calculation, which is reflected on this entry,
13 third from the bottom of page four of Exhibit
14 10, would be reflected in the manner in which
15 it was reflected?

16 A Not to my knowledge.

17 Q And if I showed you, and I can
18 show you many other entries for apartment
19 repairs that are reflected in this particular
20 manner with an hourly rate and a number of
21 hours, would your testimony be the same that
22 those numbers are reflective of backing in to
23 an invoice as presented?

24 A That would be my assumption, yes.

25 Q During the course of Mr. Britt's

1 J. Yablonsky

2 employment by Thermald/Wavecrest, do you have
3 any knowledge as to whether he performed work
4 for any other entity?

5 MR. ETTINGER: I'm going to object
6 to the form, but you can answer.

7 A Specifically, no.

8 Q Well, generally speaking, were you
9 aware that Mr. Britt did contracting work or
10 handyman work for entities other than Thermald
11 during the period of his employment?

12 MR. ETTINGER: Or people.

13 Q Or people?

14 A I don't know of any specific work
15 that he did. We certainly knew that he was
16 able to when there was something that was
17 allowed.

18 Q So you answered my next two
19 questions.

20 Did Mr. Britt --

21 A You're welcome.

22 Q Did Mr. Britt at any point in time
23 complain to you during the course of his
24 employment that he was not paid the amount that
25 he thought he should be paid during the course

1 J. Yablonsky

2 of his employment?

3 MR. ETTINGER: Objection.

4 You're talking about specific
5 hours or generally not being paid enough
6 money?

7 MS. BILUS-GOULD: No. Withdrawn.

8 BY MS. BILUS-GOULD:

9 Q Did he ever tell you that he
10 wasn't paid what he was entitled to be paid?

11 A What he was entitled to be paid,
12 no.

13 Q Thinking back now to the point in
14 time when Mr. Britt became employed by
15 Thermal, which was at the beginning of 2007;
16 is that correct?

17 A That's correct.

18 Q Was there any year from 2007
19 through the termination of Mr. Britt's
20 employment that Thermal had four or more
21 employees who worked each day for twenty or
22 more weeks?

23 MR. ETTINGER: To your knowledge.

24 Q To your knowledge?

25 A No.

1 J. Yablonsky

2 Q During the period in which Mr.
3 Britt was employed by Thermald/Wavecrest, who
4 was responsible for making the appropriate
5 filings with the various governmental agencies,
6 for example, the New York State Department of
7 Labor Unemployment Insurance Division or the
8 Treasury for Federal Uninsurance filings?

9 MR. KOERNER: Objection.

10 You can answer it.

11 A That would have been part of the
12 work that Paychex did.

13 Q And was there somebody at
14 Wavecrest that reviewed those filings prior to
15 the time they were made?

16 A There was somebody at Wavecrest
17 who interacted with Paychex. Whether they
18 reviewed it or what their procedures was, I
19 couldn't answer you.

20 Q Who was the person at Wavecrest
21 who interacted with Paychex?

22 A A woman by the name of a Tara.

23 Q Is it Tara Clyburn?

24 A Thank you.

25 Q Is that who it was?

1 J. Yablonsky

2 A Yes.

3 MS. BILUS-GOULD: C-L-Y-B-U-R-N.

4 BY MS. BILUS-GOULD:

5 Q Do you know how many employees
6 Thermalld had during the year 2007 at any point
7 in 2007?

8 A Typically there were two
9 employees. There may have been some point
10 where somebody else was put on payroll for some
11 specific work.

12 MS. BILUS-GOULD: Please mark the
13 next exhibit, Exhibit 25.

14 (Document is marked Exhibit 25 for
15 identification, as of this date.)

16 MR. KOERNER: Let me take a break.

17 (Whereupon, a recess was taken.)

18 BY MS. BILUS-GOULD:

19 Q Mr. Yablonsky, taking a look at
20 Exhibit 25, do you know what this exhibit is
21 comprised of?

22 A It appears to be a tax filing for
23 Thermalld Realty.

24 Q This is for the year 2007; is that
25 correct? Looking at the top of the page, where

1 J. Yablonsky

2 it says "tax year '07" in very small print, to
3 the right.

4 MR. ETTINGER: I see it over there
5 (indicating.)

6 A Well, actually it appears to be a
7 filing for one quarter of '07, if I'm reading
8 it correctly.

9 Q Well, we can talk about what's
10 filed in the last quarter.

11 On this page there appears to be
12 three employees listed; is that correct?

13 A That's correct.

14 Q Mr. Zheng?

15 A Correct.

16 Q Mr. Burke?

17 A Correct.

18 Q That's the Brendan Burke that you
19 were talking about before?

20 A I would suspect as much.

21 Q And Ronald Britt; is that correct?

22 A That's correct.

23 Q Do you have any reason to believe
24 that Thermal Realty I, LP had any other
25 employees during the year 2007?

1 J. Yablonsky

2 A No, I don't.

3 Q And was Mr. Burke, and I believe
4 Mr. Koerner asked you this question, but just
5 to clarify, did Mr. Burke work at any point in
6 time simultaneously with Mr. Britt?

7 A I don't recall if there was any
8 overlap.

9 Q Thank you.

10 MS. BILUS-GOULD: Please mark the
11 next exhibit, number 26.

12 (Document is marked Exhibit 26 for
13 identification, as of this date.)

14 BY MS. BILUS-GOULD:

15 Q Mr. Yablonsky, looking at Exhibit
16 26, which is entitled "Compensation Report
17 Thermal Realty Associates, LP," and there is
18 the name "Paychex, Inc." on the bottom. And it
19 also says on the top of this page "check dates
20 3/31/2008 to 12/24/2008."

21 Do you see that?

22 A Yes, I do.

23 Q Do you understand this to be a
24 compensation report for all employees of
25 Thermal Realty Associates I, LP for the period

1 J. Yablonsky

2 of time listed 3/31/2008 to 12/24/2008?

3 A It appears to be.

4 Q With regard to this particular
5 exhibit, is it accurate there appears to be
6 listed two employees Ronald J. Britt and a Mr.
7 Zheng. We've redact his first name.

8 Do you see that?

9 A Yes, I do.

10 Q Do you have any reason to believe
11 that there were more than two employees of
12 Thermal Realty Associates I, LP during the
13 period 3/31/2008 to 12/24/2008?

14 A Not that I recall.

15 Q And do you know how many employees
16 Thermal Realty Associates I, LP had during the
17 first quarter of 2008? In other words, during
18 the time not reflected on this compensation
19 report in 2008?

20 A I would assume it's the same two
21 employees.

22 MR. ETTINGER: Are you going to do
23 this for every year?

24 MS. BILUS-GOULD: I am.

25 Please mark the next exhibit.

1 J. Yablonsky

2 MR. ETTINGER: The documents
3 should speak for themselves.

4 MS. BILUS-GOULD: Well, somebody
5 has to support those documents and I'm
6 going to be doing what I need to be
7 doing.

8 MR. KOERNER: I also object. It's
9 repetitive and wasteful of everyone's
10 money and time.

11 (Document is marked Exhibit 27 for
12 identification, as of this date.)

13 MS. BILUS-GOULD: Mark these
14 exhibits 28 through 35.

15 (Documents are marked Exhibits 28
16 through 35 for identification, as of
17 this date.)

18 BY MS. BILUS-GOULD:

19 Q Mr. Yablonsky, can you take a look
20 at what's been marked as Exhibit 27?

21 A Yes.

22 Q Can you tell, me can you identify
23 the exhibit, please?

24 A It's a quarterly payroll tax
25 filing for 2008.

1 J. Yablonsky

2 Q And is it for the entire year of
3 2008?

4 A Appears to me to be for the first
5 quarter.

6 Q Keep looking at the document,
7 please.

8 A Second quarter.

9 Q Is it for the first two quarters
10 of 2008?

11 A No. It seems to be four separate
12 documents that comprise the full year.

13 Q And that's the quarterly filing
14 for Thermald Realty Associates I, LP?

15 A The heading appears to have left
16 off the Roman numeral one, but yes.

17 Q Based upon that filing, can you
18 tell me how many employees Thermald had during
19 the year 2008?

20 A During the first two quarters it
21 appears to indicate they've had two. During
22 the third quarter they indicate that it had
23 one. And during the fourth quarter it
24 indicates two again.

25 Q Thank you. Let me take that back

1 J. Yablonsky

2 from you.

3 Looking at Exhibit 28, can you
4 identify that exhibit, please?

5 A Yes, I can.

6 Q Please tell me what it is?

7 A It's the quarterly tax filing for
8 2009. Appears to be four separate documents,
9 which in the aggregate comprise the entire
10 year.

11 Q And can you tell me based upon
12 these documents how many employees Thermal
13 Realty Associates I, LP had during the course
14 of 2009?

15 A In January they had one. In
16 February and March two. In April two. In May
17 one. In June two. In July two. In August
18 three. In September one. In October one.
19 November one. And in December three.

20 Q And looking at Exhibit 29, which
21 is the compensation report for Thermal Realty
22 Associates, and again it leaves off "one LP"
23 for the year 2009, is this document supportive
24 of what you just testified to regarding the
25 number of employees of Thermal Realty

1 J. Yablonsky

2 Associates I, LP for the year 2009?

3 A What I testified to was what was
4 shown on a month-to-month basis based on the
5 quarterly reports. Without doing their
6 reconciliation, I can't answer that.

7 Q Well, do you have any reason to
8 believe that Exhibit 28 is incorrect?

9 A No, I don't.

10 Q And to your recollection with
11 regards to the year 2009, did Thermald ever
12 have four or more employees?

13 A Not to my recollection.

14 Q So looking at Exhibit 29, which is
15 entitled "Compensation Report" and it's for the
16 year 2009 for Thermald Realty Associates LP,
17 although it's -- you say the one is left off,
18 does this document support the fact that there
19 was no time during 2009 where there were four
20 or more employees of Thermald?

21 A That's correct.

22 Q Please take a look at Exhibit 30.

23 A (Witness peruses document.)

24 Q This is entitled "Compensation
25 Report." It's for the year 2010 for Thermald

1 J. Yablonsky

2 Realty Associates. It says "LP." You say the
3 one is left off.

4 Can you tell me based upon this
5 report how many employees Thermald Realty
6 Associates I, LP had during the course of 2010?

7 A Two.

8 Q And do you have any reason to
9 believe that there was any point in time during
10 the year 2010 where Thermald Realty Associates
11 I, LP had four or more employees?

12 A No, I don't.

13 Q Looking at Exhibit 31, can you
14 identify the exhibit?

15 A Yes. It's 2010 quarterly employee
16 tax returns that appear to be covering first
17 and second quarter.

18 Q And based upon what you're seeing
19 in Exhibit 31, is this report consistent with
20 Exhibit 30 with regard to the number of
21 employees that Thermald Realty Associates I, LP
22 had during the first and second quarters of
23 2010?

24 A Again, this is listing different
25 amounts of employees for one of the periods.

1 J. Yablonsky

2 And without my reconciling the reports I have
3 no way of telling you that.

4 Q But to the best of your
5 recollection, was there any point during those
6 two quarters, the first two quarters of 2010,
7 where Thermalld had four or more employees?

8 A No, there wasn't.

9 Q Can you identify Exhibit 32,
10 please?

11 A Thirty-two is Compensation Report,
12 covering 2011.

13 Q Have you had a chance to take a
14 look at it?

15 A (Witness peruses document.)

16 Yes, I have.

17 Q And in total, at any point in the
18 year 2011, can you tell me how many people
19 Thermalld employed at any point in time?

20 A There appears to be a total of
21 four people employed.

22 Q One of them was Mr. Britt; is that
23 correct?

24 A That's correct.

25 Q One of them is a Mr. Lin, looking

1 J. Yablonsky

2 at page nine of the report; is that correct?

3 A That's correct.

4 Q Do you know who Mr. Lin was?

5 A There was a point in time where
6 Mr. Zheng was injured, not able to come to
7 work. I believe Mr. Lin was substituting for
8 him at that time.

9 Q So is it your recollection that
10 Mr. Lin and Mr. Zheng did not work at the same
11 time?

12 A If my assumption as to who he is
13 is correct, that's correct.

14 Q And looking at page nine of
15 Exhibit 32, is it accurate that it appears that
16 Mr. Lin only worked for four weeks during the
17 course of that year?

18 A That's correct.

19 Q Now, there's a third employee
20 named -- last name is Willis on page ten?

21 A Yes.

22 Q Who is that?

23 A He was somebody that we had
24 brought in to do certain specific work in the
25 building.

1 J. Yablonsky

2 Q You said "specific work." You
3 mean apartment repair work; is that correct?

4 A I'm not sure whether some of it
5 was in the common areas as well as in
6 apartments.

7 Q Is it accurate, based on this
8 report, Mr. Willis worked for a total of three
9 weeks during the year 2011?

10 A I'm not sure how the time he
11 worked corresponded to the checks that were
12 issued so I couldn't say that definitively.

13 Q Well, did he work for twenty or
14 more weeks during the year 2011?

15 A No.

16 Q And the fourth employee is Mr.
17 Zheng; is that correct?

18 A That's correct.

19 Q Would you look at Exhibit 33?

20 A Yes.

21 Q And can you identify the exhibit?

22 A It's a compensation report for
23 2012.

24 Q And during the totality of 2012 at
25 all points in time in total, how many employees

1 J. Yablonsky

2 did Thermald Realty Associates I, LP have?

3 A Appears to be seven.

4 Q And the first one was Mr. Britt;
5 is that correct?

6 A That's correct.

7 Q And then there is a Byers is the
8 last name; is that a he or a she?

9 A That's a he.

10 Q What was Mr. Byers doing for
11 Thermald during the year 2012?

12 A He's done some miscellaneous
13 repair work for us.

14 Q Based upon this report, Exhibit
15 33, for how many weeks did Mr. Byers work for
16 Thermald during the year 2012?

17 A There appears to be six checks
18 that are issued to him, but what period of time
19 that encompassed I couldn't tell you.

20 Q Two of those checks were issued on
21 March 2, 2012; is that correct?

22 A That's correct.

23 Q Another one on April 6, 2012?

24 A That's correct.

25 Q August 31, 2012?

1 J. Yablonsky

2 A Correct.

3 Q October 5, 2012?

4 A That's correct.

5 Q And November 16, 2012?

6 A Correct.

7 Q Is it accurate to state that

8 Mr. Byers did not work for Thermald for twenty
9 or more weeks during the year 2012?

10 A Again, I can't tell you what
11 period of time those checks encompassed, so I
12 can't say that definitively.

13 Q So is it your testimony that
14 looking at six checks that you can't say that
15 Mr. Byers was not employed for twenty or more
16 weeks during the course of the year?

17 A What I see here it looks like the
18 total that Mr. Byers worked appears to be 98
19 hours over the course of the year. How many
20 weeks that 98 hours fell into, I'm not able to
21 tell from this.

22 Q And 98 hours constitutes how many
23 work days?

24 MR. KOERNER: I object to this
25 whole line of questioning as to

1 J. Yablonsky

2 relevance.

3 Go ahead and finish.

4 MS. BILUS-GOULD: Thank you.

5 A It would depend on how many hours
6 a day the person is working.

7 Q Looking at the next employee, I
8 believe it's Miss Kotulski; is that correct?

9 A That's correct.

10 Q And what work did she perform
11 during the year 2012?

12 A I believe she's done some
13 administrative work for Thermalld.

14 Q What kind of administrative work?

15 A I couldn't tell you specifically.

16 Q Did she work at the buildings?

17 A No, she did not.

18 Q Where did she work?

19 A I believe she's located in New
20 Jersey.

21 Q But you don't know the nature of
22 the work that she performed?

23 A She did some administrative work
24 requested by the owner.

25 Q And looking at this compensation

1 J. Yablonsky

2 run, Mr. Yablonsky, Exhibit 33, based upon this
3 run is it accurate to state that Ms. Kotulski
4 did not work twenty or more weeks for Thermalld
5 during the year 2012?

6 A That appears to be the case, yes.

7 Q And looking at the next employee,
8 do you see Mr. Lin again; is that correct, or
9 do you have somebody else?

10 A No. Mr. Lin is the next person I
11 see.

12 Q What was Mr. Lin brought in to do
13 in the year 2012?

14 A I don't know whether he was
15 brought in to do anything or there was money
16 that was owed him from his prior work filling
17 in for Mr. Zheng, and that's when the payment
18 was made.

19 Q But the payments that are
20 reflected on this run reflect checks cut on
21 January 6, 2012, January 13, 2012 and January
22 22, 2012; is that correct?

23 A No. What it reflects is one of
24 the checks being reversed. So that --

25 Q Which check was that?

1 J. Yablonsky

2 A Let's me see if I can tell from
3 here. I can't tell which of these two checks
4 were reversed, but one of them was reversed.
5 It looks that the January 13th check was
6 voided.

7 Q So in total Mr. Lin appears to
8 have worked a period of two weeks during this
9 year; is that correct?

10 A No. He looks to have worked a
11 period of one week.

12 Q Thank you.

13 Looking at the next employee, last
14 name is Prince?

15 A Not on the exhibit that I have.

16 Q May I see it, please?

17 A (Witness complies.)

18 MS. BILUS-GOULD: Off the record.

19 (Discussion is held off the
20 record.)

21 MR. ETTINGER: Look at this.

22 She's showing you that the document was
23 improperly photocopied, the exhibits.

24 So page fourteen, there's a Mr. Lublin.

25 BY MS. BILUS-GOULD:

1 J. Yablonsky

2 Q Who is Mr. Lublin?

3 A If memory serves, I believe Mr.
4 Lublin provided vacation relief when Mr. Britt
5 was on vacation.

6 Q So it's your best recollection
7 that Mr. Britt and Mr. Lublin did not work at
8 the same time; is that correct?

9 A That's correct.

10 Q And for how many weeks in 2012 did
11 Mr. Lublin work, if you can tell?

12 A I can't really tell.

13 Q Is it accurate that he did not
14 work twenty or more weeks for Thermald during
15 the year 2012?

16 A That appears to be the case.

17 Q And turning to the next employee,
18 and that's the last name Prince; is that
19 correct?

20 A That's correct.

21 Q Is that a man or a woman?

22 A That's a woman.

23 Q And that was Amy Prince?

24 A That's correct.

25 Q What was she brought in to do?

1 J. Yablonsky

2 A She did cleaning and helped with
3 apartment repairs.

4 Q And for how many weeks did Miss
5 Prince work in the year 2012?

6 A From this it appears that she
7 worked two weeks plus sporadic hours in
8 additional weeks.

9 Q Is it accurate to state that at no
10 point in 2012 did Miss Prince work twenty or
11 more weeks for Thermal?

12 A Similar to my answer with Mr.
13 Byers, she worked a total of 106-and-a-half
14 hours during the course of the year. I can't
15 tell from this how the checks corresponded to
16 actual weeks or partial weeks of work.

17 Q And looking at the next employee
18 that is Mr. Zheng; is that correct?

19 A That's correct.

20 Q Looking at Exhibit 34, is that in
21 front of you?

22 A Yes, it is.

23 Q Can you identify that exhibit?

24 A It's the quarterly tax returns for
25 2012.

1 J. Yablonsky

2 Q Is this for Thermald?

3 A For Thermald Realty Associates LP.

4 Q And --

5 A And it's four separate reports
6 which encompass the entire year.

7 Q And looking at the report for the
8 second quarter, you see it?

9 A Yes, I do.

10 Q There's a notation in the third
11 month of the second quarter there were four
12 employees; is that correct?

13 A That's correct.

14 Q But then looking at the report for
15 the third quarter, there's an indication that
16 in the first month of that quarter there were
17 only two employees; is that correct?

18 A That's correct.

19 Q So if there were four employees it
20 was not for more than the course of a month; is
21 that correct?

22 A That's what this would indicate.

23 Q And looking at the report for the
24 third quarter, which is the next page, there
25 was no month during that quarter where there

1 J. Yablonsky

2 were four or more employees; is that correct?

3 MR. ETTINGER: According to the
4 report?

5 MS. BILUS-GOULD: Yes, according
6 to the report.

7 MR. KOERNER: Just give me a
8 second.

9 MR. ETTINGER: It's 233.

10 MS. BILUS-GOULD: Right, 233 on
11 the bottom.

12 MR. ETTINGER: On the bottom
13 right-hand corner you see 233?

14 MR. KOERNER: Oh, I'm sorry.

15 A That's correct.

16 Q And looking at 236, which is the
17 report for the last quarter of 2012, do you see
18 that?

19 A Yes.

20 Q Do you see that the first month
21 there's an indication that there were four
22 employees; is that correct?

23 A That's correct.

24 Q And in the second month there's an
25 indication that there was five employees; is